

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT.

DISTRICT OF CONNECTICUT

United States of America	)	
	)	
Plaintiff.	)	NO: 3:14cv1558(JCH)
	)	
vs.	)	March 7, 2017
	)	9:30 a.m.
Ajay S. Ahuja, M.D.	)	
Defendant .	)	

---

141 Church Street  
New Haven, Connecticut

HEARING

B E F O R E:  
THE HONORABLE JANET C. HALL, U.S.D.J.

A P P E A R A N C E S:

For the Plaintiff	:	Alan M. Soloway David Nelson U.S. Attorney's Office 157 Church St., 25rd floor New Haven, CT 06510
-------------------	---	--

For The Defendant	:	Glenn Allan Gazin Law Office of Glen Gazin 24 Hoyt Street Stamford, CT 06905
-------------------	---	---

Court Reporter : Terri Fidanza, RPR

Proceedings recorded by mechanical stenography, transcript produced by computer.

1 THE COURT: Good morning. Be seated, everyone.

2 We're here this morning in the matter of United  
3 States versus Ajay S. Ahuja, M.D., 314-CV-1558.

4 If I could have appearances, please.

5 MR. SOLOWAY: For the United States, Your Honor,  
6 Assistant United States Attorney Allen Soloway and Assistant  
7 United States Attorney David Nelson.

8 Good morning.

9 THE COURT: Good morning.

10 MR. GAZIN: Good morning, Your Honor. Attorney  
11 Glenn Gazin for the defendant, Dr. Ajay Ahuja.

12 THE COURT: Yes. Good morning.

13 We're here today to have a hearing on the issue of  
14 -- I guess I will call it penalty phase, I think is the  
15 appropriate description. I have reviewed all of the  
16 affidavits and I have looked -- I can't say I read every word  
17 on every exhibit, but I have a general sense of what they  
18 are. And I assume in the examination I will come to have a  
19 better understanding of why I need to look at them.

20 I have a couple of preliminary questions, if I  
21 could. First, to the Government, I notice that you  
22 referenced in an e-mail to us on Counts 19 through 22, the  
23 section of the statute that you thought was applicable. I  
24 still -- I don't know that I have a clarification or  
25 correction from the Government on Count 23, which still

1 mentions Section 841, which is the criminal statute.

2 You can get me an answer, I guess, after the break  
3 is fine, but I do still need to have that clarified.

4 MR. SOLOWAY: Your Honor, the most recent e-mail  
5 should also apply to Count 23.

6 THE COURT: Okay. So the sections referenced in  
7 your e-mail about 19 through 22 should also apply to 23. All  
8 right.

9 MR. SOLOWAY: Yes, Your Honor.

10 THE COURT: And then I just want to make sure I  
11 didn't overlook anything, Attorney Soloway. We discussed at  
12 the last pretrial or conference, the question of the costs of  
13 investigation and how broad does that get read and under what  
14 circumstances are those recoverable or arguable as an element  
15 of penalty. And I asked -- I pointed to several cases that I  
16 found, and we discussed them, obviously not everyone had read  
17 them. And I asked if you had anything further to brief on.  
18 And in other words, if you were still pressing the position  
19 you had taken, you would do a supplemental briefing. And I  
20 didn't -- I don't think I saw anything.

21 MR. SOLOWAY: There wasn't, Your Honor. I reread  
22 and I believe it was Bega (ph.)

23 THE COURT: Yes.

24 MR. SOLOWAY: And we reread Bega, and we think that  
25 in the broader sense due to the nature of the violations that

1 under Advanced Pharmaceuticals, an argument -- a credible  
2 argument can be made that since the United States had to take  
3 time to investigate this matter fully, it goes towards harm  
4 to the public because the investigators and agents involved  
5 could have been pursuing other matters. But there is not a  
6 specific reference that I'm aware of that allows specifically  
7 investigative costs. So we don't have the supplemental memo  
8 other than an overriding policy argument that can be made  
9 that those costs should be recoverable even under Advanced  
10 Pharmaceuticals.

11 THE COURT: Okay. That's fine. And then I guess I  
12 would turn to Attorney Gazin. I have read all of the  
13 briefing materials submitted. I don't see that you have  
14 argued for what you think is an appropriate amount of penalty  
15 to be awarded. Do I take it your position is zero?

16 MR. GAZIN: No, your Honor.

17 THE COURT: Do you want to take a position? If you  
18 don't, you don't have to, I suppose.

19 MR. GAZIN: It was my intent to propose a penalty in  
20 closing argument.

21 THE COURT: Okay. That's fine. Let me check to  
22 make sure that I had no other preliminary questions. I don't  
23 think so.

24 I think the only other question that I need  
25 clarified is the copy of Dr. Ahuja's affidavit, which I

1 reviewed, I did review it, isn't sworn to under oath. So I  
2 expect that when he's put on the stand for cross-examination,  
3 he will just adopt it, whatever exhibit number it is.

4 MR. GAZIN: I beg the Court's pardon. I took his  
5 oath when he signed it.

6 THE COURT: Well, it just may be the copy. I'm  
7 having trouble finding -- oh, it is in your exhibit binder.  
8 I will double check. Dr. Ahuja's Exhibit A, and I can show  
9 you the page, sir, but I have Dr. Ahuja's signature, but the  
10 commissioner line is blank. Attorney Gazin, if you look up.

11 MR. GAZIN: Oh, I beg your pardon, Your Honor.

12 THE COURT: That's fine. It's not a big deal. The  
13 first question ought to be on the cross-examination, I guess  
14 I would ask the Government to ask the doctor to affirm  
15 Exhibit A. Thank you.

16 All right. Are we ready to begin? I was told  
17 yesterday -- I was in interviews all day, but in passing I  
18 think I heard that there was a request by the Government to  
19 take their witnesses or some witnesses first and the  
20 Government didn't object, in which case I said then I don't  
21 object, but I just want to be sure that who is going on first  
22 and what witnesses are going on first and does the Government  
23 have no objection?

24 MR. SOLOWAY: The Government has no objection.  
25 Attorney Gazin made a request to the Government that we take

1 Uttam Ahuja because he requires the service of an  
2 interpreter, who I understand is in court. To accommodate  
3 Attorney Gazin, we agreed to that. Attorney Gazin has also  
4 agreed to take Mr. Marriott first because he has commitments  
5 later on during the day.

6 THE COURT: Okay. Let's call the first witness.  
7 Let's get started.

8 MR. SOLOWAY: If -- we have one brief housekeeping  
9 matter. We wanted to reserve some of our summation time for  
10 a rebuttal summation. Of the 20 minutes, we wanted to  
11 reserve five.

12 THE COURT: That's fine.

13 MR. SOLOWAY: Thank you.

14 THE COURT: Can you tell me the name of this  
15 witness, sir?

16 MR. GAZIN: His first name is Uttam, U-T-T-A-M.

17 THE COURT: Ahuja?

18 MR. GAZIN: And the last name is Ahuja.

19 THE COURT: Mr. Ahuja, would you please come up here  
20 to the witness stand area. It is just to the right of where  
21 I am, where my arm is pointing impolitely. When you arrive  
22 there, I would ask if you would remain standing so the clerk  
23 may administer an oath. I'm sorry. Is he the gentleman that  
24 needs the interpreter? Well, then I need the interpreter to  
25 come forward. Just one moment, sir.

1           Could the interpreter state your record -- your name  
2           for the record?

3           THE INTERPRETER: My name is Kawera Saboor.

4           THE COURT: I'm sorry. First of all, let's spell  
5           your last name, and then spell your first name.

6           THE INTERPRETER: I apologize, Your Honor. It's  
7           K-A-W-E-R-A, S-A-B-O-O-R.

8           THE COURT: Kawerasaboor (sic). And your first  
9           name?

10          THE INTERPRETER: Kawera.

11          THE COURT: Oh, Saboor is your last name. Are you a  
12          translator by occupation or training or just because you can  
13          speak both languages?

14          THE INTERPRETER: I'm actually a student in criminal  
15          justice, so I do both translating, interpreting as well as  
16          I'm pursuing a law major.

17          THE COURT: Are you certified as a translator?

18          THE INTERPRETER: I am not at the moment.

19          THE COURT: Can you tell me what language you would  
20          propose to translate for Mr. Ahuja?

21          THE INTERPRETER: Hindi, ma'am.

22          THE COURT: Hindi. All right. And is that a native  
23          language for you?

24          THE INTERPRETER: It is not.

25          THE COURT: How long have you spoken and read Hindi?

1 THE INTERPRETER: Since I was a child.

2 THE COURT: Okay. And do you speak it --

3 THE INTERPRETER: I speak it fluently, ma'am.

4 THE COURT: Do you use the language often?

5 THE INTERPRETER: Yes, ma'am.

6 THE COURT: Does the Government have any objection  
7 to her facilitating the testimony as a translator?

8 MR. NELSON: No, Your Honor. I don't know if the  
9 Court has asked if she has actually established she can  
10 communicate with this witness, but --

11 THE COURT: Well, I also have to do an oath, I  
12 think. Even if she's not certified, I still would do an  
13 oath. That's fine. That's another preliminary question.  
14 Have you spoken to Mr. Ahuja, who is the witness here?

15 THE INTERPRETER: I have not.

16 THE COURT: You haven't. Could you tell him what --  
17 not literally, which is what you will have to do when you  
18 translate for the Court, but just explain casually what I  
19 have been speaking to you about and establish whether you  
20 feel you can translate for this gentleman.

21 THE INTERPRETER: Yes, ma'am. He can't hear me,  
22 ma'am.

23 THE COURT: You should be next to him when you  
24 translate, so that's fine.

25 THE INTERPRETER: He wants to sit down in the chair.



1 THE COURT: Yes.

2 THE INTERPRETER: He says, yes ma'am.

3 THE COURT: Yes to what?

4 THE INTERPRETER: That's okay.

5 THE COURT: He can understand you?

6 THE INTERPRETER: He can understand me.

7 THE COURT: Then I guess, Diahann, first we should  
8 administer the oath.

9 (Interpreter sworn.)

10 THE INTERPRETER: I do.

11 THE COURT: Thank you. Would you tell him what I'm  
12 about to say to you?

13 An oath has just been administered to you and you  
14 will translate for him.

15 THE INTERPRETER: He understands.

16 THE COURT: Would you ask, please -- Mr. Ahuja,  
17 would you please stand so an oath can be administered to you?

18 THE COURT: Diahann.

19 THE INTERPRETER: He says yes, ma'am.

20 UTTAM AHUJA,

21 Having been called as a witness, was first duly sworn and

22 testified on his/her oath as follows:

23 THE COURT: Please be seated. From now on, ma'am,  
24 someone will say something, you will listen and then you  
25 translate. And obviously, if it is a long statement, we need

1 to break it up into pieces so the translator can follow.

2 Go ahead, sir, whenever you're ready, Attorney  
3 Nelson. As I said, I have read what is a seven paragraph  
4 affidavit of Mr. Uttam Ahuja, and it was subscribed to before  
5 Attorney Gazin on March 1st. So if you would proceed to  
6 cross-examine as you deem appropriate.

7 MR. NELSON: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. NELSON:

10 (Answers of Uttam Ahuja are spoken through the  
11 Interpreter.)

12 Mr. Ahuja, before you swore to this affidavit, did  
13 you have a chance to read it in your native language?

14 A. He says what paper?

15 THE COURT: That's a good question. Could you put  
16 Exhibit D in front of him?

17 THE INTERPRETER: He says he's read it, ma'am.

18 THE COURT: Could you tell him that he needs to  
19 answer the question you're translating for him and not  
20 anything else, but whatever he says, you must translate back.

21 Thank you.

22 THE COURT: The mic should be in front of the  
23 translator. It doesn't matter we hear the -- go ahead.

24 Go ahead, Attorney Nelson. He says that he has read  
25 it.

1 MR. NELSON: Thank you, Your Honor.

2 BY MR. NELSON:

3 Q. Sir, do you live at 25 Donata Lane in Stamford?

4 A. He lives at 25 Donata Lane.

5 THE COURT: You are doing fine. You have to tell  
6 him he has to wait for you to finish the translation, then he  
7 must answer it while you're silent, then you translate.

8 THE INTERPRETER: Okay, ma'am.

9 THE COURT: Thank you.

10 BY MR. NELSON:

11 Q. How long have you lived at that address, sir?

12 A. He wants to know where.

13 BY MR. NELSON:

14 Q. At 25 Donata Lane, sir.

15 A. He says he's been there for three to five years.

16 Q. And so you think you moved to 25 Donata Lane  
17 approximately 2012 to 2013?

18 THE INTERPRETER: Can you repeat the question,  
19 please?

20 BY MR. NELSON:

21 Q. So you believe that you moved to 25 Donata Lane in  
22 approximately 2013 to 2015?

23 A. He does not remember exactly when.

24 Q. Who owns 25 Donata Lane?

25 A. His brothers.

1 Q. Is that Dr. Ajay Ahuja?

2 THE INTERPRETER: I just told him that I have to  
3 translate for him and then I will translate back to you.

4 BY MR. NELSON:

5 Q. Would you like me to repeat the question?

6 THE INTERPRETER: Yes, please.

7 BY MR. NELSON:

8 Q. Is the brother you are referring to Dr. Ajay Ahuja?

9 A. Yes.

10 Q. Do you pay rent to Dr. Ahuja, sir?

11 A. He does pay rent for the house.

12 Q. Does he pay it to Dr. Ahuja?

13 THE INTERPRETER: He wants to say something that he  
14 wants me to translate.

15 A. He said it is his brother's house. His son pays the  
16 rent and he stays with his son.

17 Q. And is the son you are referring to -- I believe his  
18 name is Sonny Ahuja?

19 A. Yes.

20 Q. And do you know who Sonny pays the rent to, sir?

21 A. Dr. Ajay, he says.

22 Q. And does he pay by cash or by check?

23 A. He says he doesn't know for sure. He says maybe by  
24 check.

25 Q. Sir, in 2012, you had a back problem, November of

1 2012?

2 A. He said he had pain.

3 Q. And you went to see your brother, Dr. Ajay Ahuja,  
4 correct?

5 A. Yes.

6 Q. And he prescribed you a medicine called a  
7 hydrocodone for the pain, correct?

8 A. Yes.

9 Q. And how many pills of hydrocodone did Dr. Ahuja  
10 prescribe for you, sir?

11 A. Can you repeat the question and can you perhaps  
12 rephrase as to how --

13 Q. Sure. In November of 2012, how many hydrocodone  
14 pills did you receive from Dr. Ahuja?

15 A. He says it's been a long time. He doesn't know  
16 exactly how many, just one medicine.

17 Q. Was it one bottle, sir?

18 A. He said five years ago, he doesn't remember  
19 exactly.

20 Q. Fair enough. Your back pain flared up in March of  
21 2013, correct?

22 A. Yes.

23 Q. And you also received hydrocodone from Dr. Ahuja at  
24 that point?

25 A. He said to put heat on the backside, he said, and he

1 said to have painkillers.

2 Q. Was November 2012 and March of 2013 the only times  
3 you received hydrocodone from Dr. Ahuja?

4 THE INTERPRETER: I'm sorry. Did not get those  
5 dates.

6 BY MR. NELSON:

7 Q. Was November 2012 and March of 2013 the only times  
8 you received hydrocodone from Dr. Ahuja?

9 A. He says he doesn't know exactly. He said he was in  
10 pain so he must have gotten it.

11 Q. Did you get pain medication from Dr. Ahuja any other  
12 time, sir?

13 A. No.

14 MR. NELSON: Nothing further, Your Honor.

15 THE COURT: Any redirect?

16 MR. GAZIN: If I may, Your Honor?

17 THE COURT: Yes.

18 REDIRECT EXAMINATION

19 BY MR. GAZIN:

20 Q. Good morning.

21 A. Good morning to you, sir.

22 Q. Mr. Ahuja, have you ever heard of an entity called  
23 Ahuja Holdings, LLC?

24 A. Can you please describe entity?

25 Q. A business.

1 A. He still doesn't understand.

2 Q. I'm going to ask the question this way. I hope you  
3 can translate it. Have you ever heard of a thing called  
4 Ahuja Holdings, LLC?

5 A. He thinks it is the cold.

6 THE INTERPRETER: May I rephrase so that he can  
7 understand?

8 MR. GAZIN: No, it's my duty to put the question and  
9 yours to translate it. So I will rephrase the question.

10 THE COURT: Can I ask --

11 MR. GAZIN: Yes.

12 THE COURT: I wouldn't normally, I'd wait for an  
13 objection, but there's nothing in your direct testimony about  
14 Ahuja Holdings, and I don't believe that came up on cross,  
15 because obviously he would have told us then he didn't know  
16 what it was. So by what right do you introduce it now?

17 MR. GAZIN: Well, the witness has attested to his  
18 belief that he has been paying -- or rent has been paid for  
19 his residence to the defendant, Dr. Ajay Ahuja.

20 THE COURT: No, he -- actually, I think he said  
21 eventually that he paid it to the son.

22 MR. GAZIN: That's true. And that it was his belief  
23 that his son then conveyed the money to Dr. Ahuja. And what  
24 I'm trying to, in effect, do is rebut my own witness's  
25 testimony.

1 THE COURT: Well, that's fine but -- well, I guess  
2 you can ask the question then if you think that somehow that  
3 entity is related to that testimony, but I think the witness  
4 has said he doesn't know what an entity or a thing is that  
5 has that name. So I don't know what else you can do.

6 MR. GAZIN: All right. But I will try it just for  
7 clarity. I will make one last attempt.

8 THE COURT: That's fine.

9 BY MR. GAZIN:

10 Q. The question is: Have you ever heard of anything --  
11 called a thing called Ahuja Holdings, LLC?

12 A. Holding.

13 What is it?

14 MR. GAZIN: I will withdraw the question. I have no  
15 further questions for this witness.

16 THE COURT: All right, sir. The witness may stand  
17 down. Thank you, sir.

18 MR. NELSON: May I approach to get the book back?

19 THE COURT: Yes, you may. And that exhibit was  
20 used, so -- thank you.

21 The next witness, Attorney Gazin.

22 MR. GAZIN: Your Honor, if I can have just a  
23 moment.

24 THE COURT: Yes, sir. Tell him he's excused. He  
25 should go back to where he was. What are we waiting for?



1 MR. NELSON: I'm sorry, Your Honor. By agreement,  
2 it seems that Uttam Ahuja drove with his son, Sonny Ahuja.  
3 So if you're -- if the Court wouldn't mind, Attorney Gazin  
4 has asked to call Sonny out of order just to get them on the  
5 road.

6 THE COURT: Is there any objection to that?

7 MR. NELSON: No.

8 THE COURT: Mr. Sonny Ahuja, if you could come up to  
9 the witness stand, please, sir. Just so counsel are aware, I  
10 have a court business telephone conference call I have to  
11 take at 11:00, so I will take the break at 11:00. It is a  
12 little earlier than usual, but it's not out of whack.

13 Mr. Ahuja, if you could come to the witness stand  
14 area. When you arrive, remain standing, the clerk will  
15 administer an oath to you.

16 SONNY AHUJA,

17 Having been called as a witness, was first duly sworn and  
18 testified on his/her oath as follows:

19 THE WITNESS: I do.

20 THE CLERK: Please state your name, spell your last  
21 name, city and state of residence.

22 THE WITNESS: Sonny Ahuja, A-H-U-J-A, Stamford,  
23 Connecticut.

24 THE COURT: You may be seated, and good morning to  
25 You. Whenever you're ready, Attorney Nelson.

CROSS EXAMINATION

1  
2 BY MR. NELSON:

3 Q. Good morning, sir. Where do you live?

4 A. 25 Donata Lane.

5 Q. How long have you lived there?

6 A. About five years.

7 Q. So approximately 2012?

8 A. Yeah.

9 Q. And your father testified that he believes that 25  
10 Donata Lane is owned by Dr. Ahuja. Is that your  
11 understanding?

12 A. That is correct.

13 Q. And do you and your father pay rent to live there?

14 A. I pay the rent.

15 Q. Who do you pay the rent to?

16 A. Dr. Ahuja.

17 Q. And does that rent get paid in the form of cash or  
18 check? How does it get paid?

19 A. Check.

20 Q. Is that on a monthly basis?

21 A. Monthly basis.

22 Q. How much is the rent, sir?

23 A. 3,000.

24 Q. 3,000 a month?

25 A. Yes.

1 Q. If I'm understanding correctly, sir, your affidavit,  
2 at some point you had a bad cough?

3 A. Yes.

4 Q. You saw Dr. Ahuja for it?

5 A. Yes.

6 Q. You were prescribed cough medicine, guaifenesin?

7 A. Yes.

8 Q. And as it turns out, your daughter spilled the first  
9 bottle so you had to go back for a second bottle?

10 A. Yes.

11 Q. Go ahead. I'm sorry.

12 A. She was a two year old at that time.

13 Q. Certainly. Those things happen. Were those the  
14 only two bottles of cough syrup with guaifenesin that you  
15 obtained from Dr. Ahuja?

16 A. Yes.

17 Q. Did you obtain any other medicine?

18 A. Never.

19 Q. Do you have any knowledge of what would have  
20 happened to any other bottles of guaifenesin that Dr. Ahuja  
21 might have had?

22 A. What other bottles?

23 Q. So it fair to say you don't know, to your knowledge?

24 A. Yes.

25 MR. NELSON: Nothing further, Your Honor. Well, if

1 I may.

2 THE COURT: Yes.

3 (Speaking with counsel)

4 BY MR. NELSON:

5 Q. The rent checks that you gave to Ajay Ahuja, who was  
6 the check made out to?

7 A. Ahuja Holdings.

8 MR. NELSON: Nothing further, Your Honor.

9 THE COURT: All right.

10 MR. GAZIN: No rebuttal, Your Honor.

11 THE COURT: All right. You may step down, sir.

12 THE WITNESS: Thank you very much.

13 THE COURT: The next witness.

14 MR. GAZIN: The next witness will be Rodrick  
15 Marriott.

16 THE COURT: Mr. Marriott, if you'd come up to the  
17 witness stand, if you'd remain standing when you arrive, the  
18 clerk may administer an oath.

19 RODRICK MARRIOTT,

20 Having been called as a witness, was first duly sworn and  
21 testified on his/her oath as follows:

22 THE WITNESS: I do.

23 THE CLERK: Please state your name, spell your last  
24 name, city and state of residence.

25 THE WITNESS: Rodrick Marriott, M-A-R-R-I-O-T-T,

1 Hartford, Connecticut.

2 THE COURT: You may be seated, Mr. Marriott. This,  
3 I gather, now we're on the Government's case. I've reviewed  
4 the report of Mr. Marriott, and this is your  
5 cross-examination just so we're all on the same page.

6 MR. GAZIN: That's correct, Your Honor.

7 THE COURT: Whenever you're ready, sir.

8 MR. GAZIN: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. GAZIN:

11 Q. For convenience in asking the questions, I think it  
12 would be helpful if the witness had a copy of his own  
13 affidavit.

14 Did you bring one up with you, sir?

15 A. I did.

16 Q. I have a copy, you have a copy and the Court has a  
17 copy. So literally and figuratively we're all on the same  
18 page.

19 I would like to ask you to turn your attention to  
20 your own affidavit. It's the third page, paragraph 17. And  
21 in it, you note that on June 21, 2013, the requirement the  
22 physician who dispenses a controlled substance from her/his  
23 office reports that dispensation to the CP MRS became  
24 effective under Connecticut law on -- on that date.

25 I know you have already sworn to it, but you will

1 forgive if I ask, is that statement correct?

2 A. Yes, it is.

3 Q. What's the source of your knowledge of that fact?

4 A. Our website.

5 Q. In the next sentence in that paragraph, you state,  
6 On January 17, 2014, Drug Control notified all Connecticut  
7 physicians of a new law that went into effect on June 21,  
8 2013. And can you state what is the foundation for your  
9 representation of that fact?

10 A. We have a letter that's published on our website.

11 Q. Okay. Now, if I understand these two statements,  
12 this tells us that the new requirement was initiated or  
13 established on June 21, 2013, but notice of it was issued on  
14 January 17, 2014. So do I understand from that that prior to  
15 January 17, 2014, notice of this new requirement was not  
16 disseminated to physicians in the state of Connecticut?

17 A. Not that I'm aware of.

18 Q. And with regard to this notification that was  
19 disseminated on January 17, 2014, can you state, if you know,  
20 by what means was this information conveyed? How were the  
21 doctors notified?

22 A. I'm not sure of that.

23 Q. Well, even though you are not sure, do you have any  
24 idea?

25 MR. SOLOWAY: Objection. Calls for speculation.

1 MR. GAZIN: Well, I wasn't really asking --

2 THE COURT: I think he can answer it yes or no, then  
3 would have to explore the basis of his knowledge. But you  
4 can answer the question yes or no. Do you have any knowledge  
5 of how notice was given?

6 THE WITNESS: Specifically, no.

7 THE COURT: Okay.

8 BY MR. GAZIN:

9 Q. And so as far as you know, no notice was sent to the  
10 physicians in Connecticut about this requirement prior to  
11 January 17, 2014?

12 A. Notice by whom?

13 Q. Pardon me?

14 A. Notice by whom? By the State?

15 Q. By the Drug Control.

16 A. Correct, by Drug Control, nothing else was sent that  
17 I'm aware of.

18 Q. Now in paragraph 22, you make a number of statements  
19 regarding drug -- accidental drug intoxication deaths that  
20 were -- that included any opioid and any benzodiazepine for  
21 the years -- part of 2016 and 2015 and in 2014; is that  
22 correct?

23 A. Yes.

24 Q. Now, for 2016, you can find that figure that you  
25 give of 112 accidental drug intoxication deaths to the period

1 of January to June 2016. So just to be clear, then you refer  
2 to 2015. And so when you refer to the number of deaths that  
3 occurred in 2015, does that figure represent the total number  
4 of accidental deaths that occurred throughout that entire  
5 12-month period, January 1st, 2015 to December 31st, 2015?

6 A. Yes.

7 Q. And I'm going to ask the same question about 2014  
8 where you state that 140 accidental drug intoxication deaths  
9 occurred during that year. Was that for the entire period of  
10 365 days of 2014?

11 A. Yes.

12 Q. Okay. Do you have any figures -- and they are not  
13 in here, but I mean in the course of your investigations and  
14 preparations, did you ever review any figures for the number  
15 of accidental drug intoxication deaths that included any  
16 opioid and benzodiazepine causes for the years 2013?

17 A. I believe they were included in the chart on the  
18 medical examiner's website, which is where we drew this  
19 from.

20 Q. Did you review that figure?

21 A. I know I have seen it.

22 Q. Can you say whether there's been any meaningful -- I  
23 will strike that.

24 Any change in the number of accidental drug  
25 intoxication deaths that occurred, according on the Office of



1 the Chief Medical Examiner in Connecticut, between the years  
2 2013 and the years 2014?

3 A. I don't recall the figure specifically.

4 Q. Can you say whether there's any difference between  
5 the number of deaths that occurred according to the Office of  
6 the Chief Medical Examiner in Connecticut due to accidental  
7 drug intoxication deaths that included opioid and  
8 benzodiazepine between the years 2013 and the years 2012?

9 A. I don't recall the figure specifically.

10 Q. Is it fair to say that in the presentation of these  
11 statistics that you state in paragraph 22, that what you are  
12 trying to present to the Court is that the number of deaths  
13 that have occurred because of accidental drug intoxication  
14 deaths have been mounting in recent years?

15 MR. SOLOWAY: Objection.

16 THE COURT: Basis?

17 MR. SOLOWAY: Form.

18 THE COURT: What's wrong?

19 MR. SOLOWAY: The numbers speak for themselves.  
20 He's asking the witness to draw a conclusion from that.

21 THE COURT: No. He's asking the witness what his  
22 motive is in providing the information to the Court, and I  
23 don't know that that's relevant. That's argument. So I  
24 don't think it is appropriate to ask the witness that.

25 MR. GAZIN: Yes, Your Honor.

1 BY MR. GAZIN:

2 Q. I would like to ask you to look at paragraph 22.  
3 And in it, you state in the first sentence of paragraph 22,  
4 that you reviewed the CP MRS and our system showed Dr. Ahuja,  
5 during 2014, issued 283 prescriptions for Alprazolam and 99  
6 prescriptions for the drugs that contain narcotic substances,  
7 784 which contain buprenorphine.

8 When you say 2014, just so I'm clear, are you  
9 referring to the period of time from January 1, 2014 to  
10 December 31, 2014?

11 A. Yes.

12 Q. May I ask you if you know why you are presenting  
13 this particular fact in this report?

14 MR. SOLOWAY: Objection.

15 THE COURT: Basis.

16 MR. SOLOWAY: Motive, relevance.

17 THE COURT: Yeah. I mean, it is trial strategy,  
18 sir. He's not the one to ask. If he were on a witness stand  
19 on direct exam, a lawyer would be asking the question. He's  
20 ordered to answer whatever question's permitted. It is not  
21 for him to decide I want to give the court this testimony. I  
22 don't want to give them that testimony. That's trial  
23 strategy and then it's always an issue of relevance.

24 The objection is sustained.

25 MR. GAZIN: Then, Your Honor, I would like to bring

1 a motion to strike paragraph 22. The basis of is that the  
2 defendant has been charged with misconduct that occurred in a  
3 24-month period through -- January 2012 through the end of  
4 the year 2013.

5 And for reasons that I was trying elicit, but I  
6 won't get the answers, for some reason this data regarding a  
7 period of time for which my client is charged with having  
8 done nothing wrong in this case --

9 THE COURT: All right. The claim is he wishes to  
10 strike the paragraph as not relevant to the matters before  
11 us.

12 MR. GAZIN: Yes.

13 THE COURT: Attorney Soloway, you want to respond to  
14 that?

15 MR. SOLOWAY: The data that Attorney Gazin wishes to  
16 obtain was not available within a query of CPM. The CP MRS,  
17 the Government would submit that the manner in which those  
18 prescriptions were issued after the period in the complaint  
19 is relevant to the manner in which Dr. Ahuja prescribed  
20 medication and the manner in which Dr. Ahuja dispensed  
21 medication.

22 It is up to the Court to give it proper weight. For  
23 that reason, I would submit it is relevant.

24 THE COURT: I'm not sure I understood what you meant  
25 by the manner in which those prescriptions were issued after

1 the period in the complaint. If it is not in the complaint,  
2 why am I looking at any manner of issuing?

3 MR. SOLOWAY: Because the issuance of the  
4 prescription during the time period 2015 were for the very  
5 drugs that form the basis of the complaint.

6 It is, admittedly, beyond the time period referenced  
7 in the complaint. We wish we had access to those materials  
8 for the 2012 to 2014 time period. But I would submit that  
9 the manner in which Dr. Ahuja issued prescriptions during the  
10 latter period relates to his practice during the time period  
11 referenced in the complaint.

12 THE COURT: Give me just one moment, please.

13 Well, there's certainly testimony already in the  
14 record, Attorney Gazin, I think Mr. Sonny Ahuja would be a  
15 good example, where the cough medicine that he was questioned  
16 about, which is in his affidavit, appears to have been  
17 dispensed in 2014, February. So it would strike me that  
18 certainly the 2014 statistics would be relevant.

19 I don't really see -- I think the later years have  
20 some probative effect, not greatly, but I don't see the  
21 prejudicial effect. Indeed if I were to draw any inference  
22 from the evidence in 22 now, I would infer that in the time  
23 period that the complaint alleges, that the deaths were lower  
24 because there seems to be a trajectory of this opioid  
25 epidemic of deaths in Connecticut.

1           But I don't know that I would draw that inference,  
2 I'm not saying I will.  Somebody can argue whatever they want  
3 to argue.  I don't really see the prejudice of adding the  
4 other years.  I haven't gone back to check.  When I read the  
5 affidavits, I will confess, I didn't focus on the dates of  
6 the prescriptions.  I didn't think time was an issue.  But at  
7 least I found that one that's actually February 14 -- 6 and  
8 7th of 2014, which, of course, is within the scope of the  
9 complaint, amended complaint, but certainly that year's data  
10 is relevant.

11           So -- and I think the Government's argument is, is  
12 that the fact that large quantities of the drugs, controlled  
13 substances, went missing in a time period from February  
14 through January -- from February of '12 through January of  
15 '14, they weren't necessarily all consumed in that time  
16 period or used or distributed.  So I think that's why the  
17 later periods have some relevance.

18           So I will deny the motion to strike.  You may  
19 proceed, sir.

20 BY MR. GAZIN:

21           Q.  In paragraph 23, you state that you reviewed the  
22 work records for all investigators in the group and they  
23 accumulated a total of 680 person hours in aid of this  
24 investigation; is that correct?

25           A.  Yes.

1 Q. Can you state the names, if you know, of the  
2 individuals who worked on the investigation?

3 A. Agent Lele.

4 Q. So she was the only one, the only worker you are  
5 referring to --

6 A. Correct.

7 Q. -- who did the 680 hours?

8 A. Correct.

9 Q. And did you have any part in supervising her work?

10 A. I did not.

11 Q. Do you know who did?

12 A. Principal Agent Paluba.

13 Q. And can you state how you came -- how you arrived at  
14 an estimated weighted rate \$43.208? Well, it says 43.208, so  
15 let's round it off to \$43.20 per hour.

16 Where did you derive that figure?

17 A. That's her hourly wage.

18 Q. Do you know, if you know, how the amount of money  
19 that was expended by Ms. Lele, that is the amount of hours  
20 she incurred, how that was budgeted by her employers, the  
21 Government?

22 MR. SOLOWAY: Objection. Beyond the scope of  
23 direct, Your Honor.

24 MR. GAZIN: I will withdraw the question.

25 THE COURT: I'm not sure I understand the question.

1 So I have trouble knowing whether it is outside the scope.

2 MR. GAZIN: I'm not clear about my question, either.

3 That's all the question I have. Thank you.

4 THE COURT: Any redirect?

5 MR. SOLOWAY: Yes, Your Honor.

6 THE COURT: Briefly.

7 REDIRECT EXAMINATION

8 BY MR. SOLOWAY:

9 Q. Agent Marriott, the requirement that a physician who  
10 dispenses a controlled substance report the same to the  
11 Connecticut PMP became effective on June 22, 2013, correct?

12 It is paragraph 17 of your affidavit.

13 A. Correct.

14 Q. And presumably, if it became effective on June 21,  
15 2013, at some point prior to that, the state legislature had  
16 approved it, correct?

17 A. Correct.

18 Q. And presumably subsequent to the state legislature  
19 approving that requirement, it was signed into law by the  
20 governor, correct?

21 A. Correct.

22 Q. And when State Drug Control sent the notice to the  
23 physicians in the state of Connecticut in January of 2014, it  
24 was reminding the physicians of their responsibility that had  
25 been created by the passage of the Act; is that a fair

1 statement?

2 A. I believe so.

3 MR. SOLOWAY: Thank you. No further questions, Your  
4 Honor.

5 THE COURT: You may step down, sir. The next  
6 witness. I guess the next witness the defense wishes to call  
7 on cross.

8 MR. GAZIN: Leonard Levin, Your Honor.

9 THE COURT: Mr. Levin. You can come up here to the  
10 witness stand area. When you arrive, would you please remain  
11 standing so the clerk can administer an oath to you.

12 LEONARD LEVIN.

13 Having been called as a witness, was first duly sworn and  
14 testified on his/her oath as follows:

15 THE WITNESS: Yes.

16 THE CLERK: Please state your name, spell your last  
17 name, city, state of residence.

18 THE WITNESS: Leonard Levin. Rocky Hill,  
19 Connecticut.

20 THE COURT: You may be seated, sir. Whenever you  
21 are ready, Attorney Gazin.

22 MR. GAZIN: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. GAZIN:

25 Q. Mr. Levin, I would like to call your attention to



1 paragraph 23 of your own affidavit.

2 Now, I note that it states that you have supervised  
3 Marcie Johnson, the investigator, during all periods of her  
4 involvement with the investigation of Dr. Ahuja.

5 Now, could you state briefly what your role as  
6 supervisor of her work entailed? In what way? How did you  
7 supervisor her?

8 A. I supervise all my investigators as far as the cases  
9 they work on, I review their reports, I also evaluate them  
10 for their performance at the end of each fiscal year.

11 Q. Do you dictate to them, in any degree, the manner in  
12 which they are to conduct their investigation?

13 A. Each one of my investigators has been trained by DEA  
14 in Quantico. They are thoroughly familiar with the  
15 Controlled Substance Act. I do guide them as far as how the  
16 investigation goes about, and I do monitor it as it is going  
17 on.

18 Q. Was it your job to set for Ms. Johnson the time  
19 parameters for the investigation that she conducted in this  
20 case?

21 A. No.

22 Q. Okay. Do you know who did determine for Ms. Johnson  
23 the periods of time during which -- for which she would be  
24 investigating Dr. Ahuja's conduct?

25 A. The investigators do that themselves, and I monitor

1 their work.

2 Q. Now according to the first amended complaint in this  
3 matter, every count -- or most of the counts start tabulating  
4 conduct by the defendant in violations of various codes and  
5 the regulations commencing on February 17, 2012.

6 Do you know how it was that the investigation was  
7 determined to review or investigate and examine the conduct  
8 of Dr. Ahuja commencing on February 17, 2012?

9 A. Under federal guidelines in the Code of Federal  
10 Regulations, a practitioner is required to maintain  
11 records for a period of two years.

12 So based upon your question, they would go back two  
13 years and review records.

14 Q. And so the period during which Dr. Ahuja was under  
15 examination or investigation started on February 17, 2012,  
16 correct?

17 A. I was not in Hartford then. I do not know.

18 Q. Do you have any information to the contrary, that it  
19 didn't start on February 17, 2012?

20 A. No.

21 Q. And do I also -- is it fair to state that whenever  
22 this investigation commenced, it was for a period of two  
23 years, covered two years of Dr. Ahuja's conduct?

24 MR. SOLOWAY: Your Honor, the complaint is different  
25 than the reports. The time period referenced in the

1 complaint was not decided by Investigator Levin.

2 THE COURT: Isn't he the testifying witness? Do you  
3 have an objection, I guess?

4 MR. SOLOWAY: Yes, Your Honor. Relevance.

5 THE COURT: Overruled. --

6 BY MR. GAZIN:

7 Q. So if you recall the question, you may answer it.

8 A. Could you repeat that question, please?

9 MR. GAZIN: May I ask the court reporter to repeat  
10 my question?

11 THE COURT: Do I also -- is it fair to say that  
12 whenever this investigation commenced, it was for a period of  
13 two years, covered two years on Dr. Ahuja's conduct?

14 THE WITNESS: I believe it did cover two years of  
15 his records as far as going back, yes.

16 BY MR. GAZIN:

17 Q. Now, the investigation that's conducted by  
18 Ms. Johnson, was it focused entirely and exclusively on the  
19 misconduct that is alleged and recited in the complaint in  
20 this action of United States of America versus Ajay Ahuja,  
21 MD?

22 A. Yes.

23 Q. Now at this time, to your knowledge, is Dr. Ahuja  
24 also the subject of a disciplinary action?

25 A. Yes.

1 Q. By another department of the federal government?

2 A. By DEA.

3 Q. Can you state very briefly what the nature of that  
4 action is?

5 MR. SOLOWAY: Your Honor, I am going to object as  
6 beyond the scope.

7 THE COURT: Is that covered in his affidavit, sir?

8 MR. GAZIN: Your Honor, that's what I'm getting to.  
9 These questions that I'm asking are foundational or, shall we  
10 say, provide background to some very relevant questions.

11 THE COURT: What's the subject of relevant  
12 questioning?

13 MR. GAZIN: Well, I won't be coy, Your Honor --

14 THE COURT: Just tell me the subject matter that you  
15 are moving towards.

16 MR. GAZIN: The subject matter is regarding the  
17 number of controlled substances that are alleged to be  
18 missing by the plaintiff in this case as recited in paragraph  
19 25 of this witness's affidavit where it states --

20 THE COURT: I know what it states. You are  
21 representing to the Court that an inquiry about the DEA  
22 investigation is going to get you to be able to cross on the  
23 number of missing pills?

24 MR. GAZIN: This particular number of missing pills,  
25 this report, yes, Your Honor.

1           THE COURT: All right then. The objection is  
2 overruled. You may inquire.

3           MR. GAZIN: I will strike my last question, and I  
4 will restate it.

5 BY MR. GAZIN:

6           Q. Is there an investigation being conducted at this  
7 time in which Dr. Ahuja is the subject for prosecution  
8 regarding his prescribing and dispensing license under DEA  
9 regulations?

10           MR. SOLOWAY: Objection, Your Honor. Again, beyond  
11 the scope. It is not relevant, and it is not mentioned or  
12 referenced in any shape, manner or form in Investigator  
13 Levin's --

14           THE COURT: Counsel has made a representation to me.  
15 If he's mistaken in that representation, then we'll deal with  
16 that. But he's represented that this question is needed to  
17 get to a point where he can question about paragraphs 25 or  
18 26 or other places in this affidavit where the witness gave  
19 testimony about the number of missing pills or bottles or  
20 whatever.

21           There's no jury. I don't see that it is a highly  
22 inflammatory question. If the witness has no knowledge about  
23 it, he can say he doesn't know. If he knows, he can answer  
24 the question. If we don't get to a cross-examination on  
25 paragraphs 25 and 26, I will entertain your motion to strike

1 the testimony.

2 MR. SOLOWAY: Thank you.

3 THE COURT: Go ahead, sir.

4 THE WITNESS: The investigation phase has -- was  
5 completed quite some time ago, but there's a procedure in DEA  
6 known as an Order to Show Cause to revoke a DEA registration.  
7 And, is that, I assume what you are referring to?

8 BY MR. GAZIN:

9 Q. No, that's what I'm asking about. But yes, my  
10 question does refer to that investigation.

11 And did Ms. Johnson, your investigator, did her  
12 investigation cover allegations of violations and misconduct  
13 that went beyond those that are strictly referenced in this  
14 action, United States of America versus Ajay Ahuja?

15 A. The violations are very similar in both.

16 Q. Similar, but not exactly congruent?

17 A. They are pretty much the same violations.

18 Q. Now in paragraph 25, your affidavit alleges that  
19 with regard to Alprazolam, there were 48,690 --

20 MR. SOLOWAY: Objection. Counsel is referring to  
21 the original affidavit. There's a second affidavit that was  
22 submitted, a corrected affidavit. The numbers that Attorney  
23 Gazin is using were with the original affidavit. Those were  
24 furnished to Counsel --

25 THE COURT: I was given and reviewed an affidavit

1 dated March 3. So that's what before the Court, sir. If you  
2 weren't given it --

3 MR. GAZIN: I beg your pardon. I stand corrected.  
4 I did not receive the affidavit dated March 3. I'm looking  
5 at the affidavit dated February 24.

6 MR. SOLOWAY: At the same time I mailed that copy to  
7 the Court, I copied Attorney Gazin.

8 MR. GAZIN: When you say mailed, do you mean e-mail?

9 MR. SOLOWAY: E-mail, that's correct.

10 MR. GAZIN: Well, I missed it. I'm awfully glad to  
11 see this now. It's going to save all of us a lot of time.

12 I don't wish to criticize plaintiff, I'm sure they  
13 sent it to me in good-faith. I'm sure they e-mailed.

14 THE COURT: It is not an issue. Just ask a  
15 question. I mean, obviously take a moment to look at what  
16 you didn't see.

17 BY MR. GAZIN:

18 Q. But I do have a question which is raised by the  
19 discovery of this new and amended or, shall we say, corrected  
20 affidavit because it may have relevance and I think I'm  
21 entitled.

22 The affidavit, which I have here which was dated  
23 February 24, states that there were 48,690 tablets, I  
24 presume, of Alprazolam missing. The corrected affidavit,  
25 dated March 3, states there were 5,310 tablets missing.

1           Can you explain to the Court how it was that the  
2 original error was made?

3           A.    It was an error on the first copy.  We found and saw  
4 the error, and we made the correction.

5           Q.    So I just want to be clear that the total value of  
6 the drugs that Dr. Ahuja allegedly cannot account for is not  
7 \$218,362.40, but rather \$28,462.18?

8           A.    Yes.  That's correct.

9           MR. GAZIN:  That's all the questions I have here.

10          THE COURT:  Any redirect?

11          MR. SOLOWAY:  No, Your Honor.

12          THE COURT:  You may step down, sir.  Thank you very  
13 much.  Your next witness.

14          MR. GAZIN:  The next witness is investigator --

15          THE COURT:  I'm sorry.  Could I ask a question?  I  
16 apologize.  I had my own questions.  Sorry.

17                When you say street value in paragraph 25, what is  
18 the basis for that?

19          THE WITNESS:  The State of Connecticut Drug Control  
20 Division has a website.  And on that website, they do list  
21 the current street values of specific drugs.

22          THE COURT:  How about the retail value, what was  
23 your source of that?

24          THE WITNESS:  The retail value, we go by what the  
25 distributor sells in the pharmacy or the physician, what



1 their cost is. Then we'll check with local pharmacies on  
2 what the actual retail value and estimate approximately what  
3 it is.

4 THE COURT: In this instance, were there any records  
5 kept by Dr. Ahuja about what he charged for any of these  
6 types of drugs?

7 THE WITNESS: I'm not aware of that.

8 THE COURT: Thank you very much.

9 MR. GAZIN: Your Honor, in light of your questions,  
10 may I ask a few questions?

11 THE COURT: Yes.

12 BY MR. GAZIN:

13 Q. To your knowledge, was any attempt made by your  
14 department to inquire of Dr. Ahuja what he retailed these  
15 controlled substances for in the course of his practice?

16 A. I don't know the answer to that question.

17 Q. Well, did you give any directions to Investigator  
18 Johnson to make an inquiry in the course of her investigation  
19 of this case to attempt to learn what price Dr. Ahuja charged  
20 to those patients of his to whom he dispensed these  
21 controlled substances?

22 A. I did not do that, no.

23 Q. Why not?

24 A. I did not feel it was necessary.

25 Q. Well, in the course of the investigations that you

1 supervise in cases such as this, where a medical practitioner  
2 is charged with violations of the codes and regulation  
3 regarding controlled substances, is it not a routine practice  
4 to attempt to or endeavor to find out, what was the price  
5 that a practitioner was charging for controlled substances  
6 that he or she dispensed to patients?

7 MR. SOLOWAY: Objection, Your Honor. It is beyond  
8 the very limited line of questioning that Her Honor put to  
9 Investigator Levin, and certainly beyond the scope of the  
10 affidavit of Investigator Levin.

11 THE COURT: Overruled. You may answer the question.

12 THE WITNESS: It depends on the investigation. And  
13 it is also up to the investigator to make that determination,  
14 whether to inquire what the cost that the practitioner  
15 charged for the specific drug.

16 MR. GAZIN: Thank you very much. I have no further  
17 questions.

18 THE COURT: Any redirect?

19 MR. SOLOWAY: None, Your Honor. Other than to note  
20 that I know the Court has an appointment at 11:00. So I  
21 would respectfully request that we take our break before we  
22 begin Investigator Johnson.

23 THE COURT: Why would I waste 26 minutes?

24 MR. SOLOWAY: Perish the thought, Your Honor.

25 THE COURT: My sentiments exactly. You may step

1 down, Mr. Levin. And Ms. Johnson, I guess you are the next  
2 witness. If you wouldn't mind coming to the witness stand.

3 THE COURT: If you would come up here to the witness  
4 stand area, Ms. Johnson. When you arrive, remain standing.  
5 The clerk will administer an oath to you.

6 MARCIE JOHNSON

7 Having been called as a witness, was first duly sworn and  
8 testified on his/her oath as follows:

9 THE WITNESS: Yes.

10 THE CLERK: State your full name and the city and  
11 state in which you work.

12 THE WITNESS: Marcie Johnson, J-o-h-n-s-o-n, Rocky  
13 Hill, Connecticut.

14 THE COURT: You may be seated. Whenever you are  
15 ready, sir.

16 MR. GAZIN: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. GAZIN:

19 Q. Would it be fair to say Ms. Johnson -- I beg your  
20 pardon.

21 Investigator Johnson, would it be fair to say that  
22 you invested a substantial amount of time into researching  
23 this case?

24 A. Yes.

25 Q. Now with regard to that amount of time that you did

1 invest, was that amount of time determined at your own  
2 discretion or were you, shall we say, given directions on how  
3 much time you could put into this case by your supervisors?

4 A. That was at my discretion.

5 Q. Thank you. Now, in the course of this affidavit,  
6 you talk or relate, at some length, about what occurred on  
7 the occasion of your interview of Dr. Ahuja when you first  
8 went to his office in, I believe, January and February of  
9 2014.

10 You do talk about that, don't you?

11 A. Yes.

12 Q. And I think would it be fair to say that in the  
13 course of your descriptions of what occurred, that you found  
14 Dr. Ahuja to be, shall we say, uncooperative in the course of  
15 your initial investigation?

16 A. I'm sorry. Did you say cooperative?

17 Q. Uncooperative?

18 A. At times.

19 Q. At times.

20 Do you recall when you first spoke with him, on the  
21 first two sessions in which you came to his office in early  
22 2014, do you recall Dr. Ahuja's demeanor and emotional state  
23 as it appeared to you?

24 A. He voluntarily spoke to us, so his demeanor was --  
25 there were many times he was cooperative. There were times

1 he was not, so the demeanor varied. I can't testify to his  
2 emotional state.

3 Q. No, I wouldn't ask you to do that, but I was asking  
4 if you could relate to the Court if you saw anything that  
5 made you think or that made him appear to be upset? Did he  
6 appear to be upset at times while you investigated and met  
7 with him on those two occasions?

8 A. At times, if there were certain questions that Dr.  
9 Ahuja maybe didn't want to answer or that we asked of him  
10 that he didn't want to consent to.

11 Q. At the time that you initially met with him, did you  
12 have any awareness that he might have difficulty with his  
13 hearing?

14 A. I don't recall specifically.

15 Q. Now, you know that Dr. Ahuja does not hail from the  
16 United States originally, correct?

17 A. Correct.

18 Q. Did you find, in talking with him, that there were  
19 any difficulties in communication engendered by the fact that  
20 his English was less than perfect?

21 A. Not at all.

22 Q. So you found him to be completely fluent for your  
23 purposes in speaking with him?

24 A. Yes.

25 Q. In the course of your investigation, did you speak

1 with any of Dr. Ahuja's patients?

2 A. Yes.

3 Q. In the course of your investigation, did those  
4 patients include the four people who are referred to in  
5 Counts 19, 20, 21 and 22 of the amended complaint who are  
6 referred to specifically as John Doe 1, John Doe 2, John Doe  
7 3 and Jane Doe 1?

8 A. No.

9 Q. In the course of your investigation, did you look  
10 into the controlled substances that were -- that were, in  
11 fact, either prescribed or dispensed to these four individual  
12 by Dr. Ahuja?

13 A. Yes.

14 Q. Can you state why you did not speak to any of these  
15 four individuals directly in the course of your  
16 investigation?

17 A. The main focus of the investigation, specifically  
18 with these patients, was the lack of recordkeeping.

19 Q. And then are you saying that as far as -- that it  
20 was your understanding that the wrongdoing as alleged in  
21 these four counts consists exclusively and entirely to a  
22 failure to keep records?

23 A. In this case, yes.

24 Q. In this case. I mean, this case, U.S. versus Ahuja.

25 MR. GAZIN: That's all the questions I have for

1 you.

2 THE COURT: Any cross-examination?

3 MR. SOLOWAY: No, Your Honor.

4 THE COURT: Give me just one moment to see if I had  
5 any questions.

6 MR. GAZIN Unless the Court has some questions.

7 THE COURT: That's what I said. Give me a moment.  
8 I'm reviewing my notes to see if I have anything.

9 At paragraph 48, Ms. Johnson, you indicate at the  
10 conclusion of your description of a net approach, a net  
11 figure for medications missing, I guess, you said you used  
12 this net approach. And you said in this paragraph 48, in  
13 your quote -- in your opinion using net figures for the  
14 controlled substance accountability is, therefore, in  
15 Dr. Ahuja's favor.

16 I guess I'm not sure I follow the "therefore," so if  
17 you could elaborate on that a bit. I have read the prior  
18 paragraphs and I understand that in some instances there were  
19 no medications left. So obviously, the net figure is the  
20 total ordered. Is that fair?

21 THE WITNESS: Yes, Your Honor.

22 THE COURT: And in other cases, there were -- the  
23 records indicated he got 30 bottles of a certain type of  
24 drug, that's the cough medicine that was the subject of  
25 earlier testimony, he only had three bottles left, but -- his

1 record he had three left and dispensed 53. So that there  
2 were more bottles he accounted for than he actually received,  
3 at least based on your review of the records. So I'm not  
4 really sure why the net figure approach results in something  
5 to his favor --

6 THE WITNESS: Your Honor, the net approach factored  
7 if there may have been a discrepancy or an error, or whatever  
8 the appropriate word would be, with removing the sticker from  
9 the dispensed bottle. To give an example, maybe if the  
10 patient received two bottles of guaifenesin with codeine,  
11 that could have been different lot numbers. If theoretically  
12 two stickers came off of one bottle but they were different  
13 lots, that would offset by using the net figure. Maybe a  
14 better example would be that one of the lot numbers had a  
15 shipment of 82 bottles, that not a single bottle was counted  
16 for. Another shipment, more bottles than received were  
17 dispensed. So that factors -- rather than charging, you  
18 know, the missing 82 bottles plus the overage of the 20  
19 something that would add up to well over a hundred, in my  
20 opinion, this accounted for where there may have been errors  
21 in the recordkeeping of taking that lot number off the bottle  
22 and placing it into the records, if the that makes sense.

23 THE COURT: So in paragraph 47, when you spoke about  
24 the record showed he received 30 bottles of guaifenesin with  
25 codeine, but he dispensed 53, you, in effect, took the 23



1 overage and used that as part of netting out the number of  
2 unaccounted for bottles from another shipment?

3 THE WITNESS: Yes.

4 THE COURT: Fine. I understand that then. In  
5 paragraph 63, you report that you and another agent reviewed  
6 Dr. Ahuja's patient data in his record system; is that  
7 correct?

8 THE WITNESS: Yes.

9 THE COURT: You say, quote, we observed Dr. Ahuja  
10 failed to report any patient dispensing for the two years  
11 that we reviewed, end quote. Is that correct?

12 THE WITNESS: Yes.

13 THE COURT: So how did you know, for example, that  
14 his son who testified already got the cough medicine with  
15 codeine?

16 THE WITNESS: We reviewed Dr. Ahuja's dispensing  
17 logs that he provided primarily as a result of an  
18 administrative inspection warrant, and there were additional  
19 records we received a week later that he provided to me.

20 THE COURT: So somewhere in dispensing records, he  
21 would indicate some of what happened to the medications he  
22 received and that you could account for those in that sense,  
23 in your netting out, for example; is that correct?

24 THE WITNESS: Yes.

25 THE COURT: But that in -- there were no patient

1 records of the dispensing of any of the substances that are  
2 the subject of your investigation. Is that also correct?

3 THE WITNESS: Well, offhand, the specific dispenses,  
4 I don't believe there were records of, or at the time  
5 Dr. Ahuja had told us he did not have charts. They were  
6 later produced. I would have to look at them to see, but I  
7 believe offhand those specific dispenses didn't have a  
8 record.

9 THE COURT: All right. I have no further questions.  
10 If you wish to do some more cross in light of my questions,  
11 Attorney Gazin, you may.

12 MR. GAZIN: I do. I'm just a little confused. I  
13 may not be as swift as I should be, but --

14 BY MR. GAZIN:

15 Q. With regard to the medications, for example, the  
16 cough syrup that was dispensed to Dr. Ahuja -- to Sonny  
17 Ahuja, ultimately how did it come to your knowledge that the  
18 cough syrup was dispensed to Sonny Ahuja?

19 A. Dr. Ahuja provided copies of his dispensing logs,  
20 and that is where the information came from.

21 Q. So he did keep a dispensing log?

22 A. Correct.

23 Q. Did you ever ask to look at Sonny Ahuja's chart in  
24 the course of your investigation?

25 A. I did not.

1 Q. So for all you know, Sonny Ahuja's chart might also  
2 indicate that cough syrup was prescribed?

3 A. It is possible.

4 MR. GAZIN: All right. That's all I have.

5 THE COURT: Redirect?

6 REDIRECT EXAMINATION

7 BY MR. NELSON:

8 Q. Attorney Gazin asked you if Dr. Ahuja kept a  
9 dispensing log. Do you recall?

10 A. I'm sorry. What was the question?

11 Q. Attorney Gazin asked you if Dr. Ahuja kept a  
12 dispensing log. Do you remember that?

13 A. Yes.

14 Q. Was the dispensing log complete and in compliance  
15 with Federal regulations?

16 A. No.

17 MR. NELSON: Thank you.

18 MR. GAZIN: Well --

19 THE COURT: All right. Yes.

20 MR. GAZIN: May I, Your Honor?

21 THE COURT: Well, normally I don't allow a recross  
22 because we would have a tennis match, you know, who is going  
23 to get the last word. If you weren't aware of that, I guess  
24 I'll allow you, but it is something you could have asked if  
25 you had wanted to.

1 MR. GAZIN: Your Honor, out of respect for the  
2 Court's rules, I will refrain from further recross.

3 THE COURT: Okay. You may step down. You are done  
4 then. The next witness.

5 MR. GAZIN: Dr. Perrin. And for the record, this is  
6 Adam E. Perrin, P-E-R-R-I-N, M.D.

7 THE COURT: Yes. Dr. Perrin, you've heard the  
8 drill. So go ahead, Diahann.

9 DR. ADAM E. PERRIN,  
10 Having been called as a witness, was first duly sworn and  
11 testified on his/her oath as follows:

12 THE WITNESS: Yes.

13 THE CLERK: Please state your name, spell your last  
14 name, city and state of residence.

15 THE WITNESS: Adam Perrin, P-E-R-R-I-N. Hartford,  
16 Connecticut.

17 THE COURT: You may be seated, Doctor, and good  
18 morning to you. And whenever you're ready, Attorney Gazin.

19 CROSS-EXAMINATION

20 BY MR. GAZIN:

21 Q. Dr. Perrin, good morning.

22 A. Good morning.

23 Q. I would like to ask you to look at page nine of your  
24 report. Do you have a copy of that?

25 A. Not with me.

1 THE COURT: This is Government's Exhibit 36. It is  
2 for I.D. at this point. I don't normally mark a report of an  
3 expert as testimony unless, I guess, it was the Government's  
4 intention when I made you to this system of affidavits that  
5 his report would be part of his direct examination. In other  
6 words, are you offering his report?

7 MR. GAZIN: Yes, Your Honor, I'm offering it and I  
8 understand opposing counsel also consents to that.

9 THE COURT: I have read it so I don't think there is  
10 an issue and the witness is here to be questioned. So you  
11 may proceed.

12 Exhibit 36 is a full exhibit, Diahann.

13 BY MR. GAZIN:

14 Q. Dr. Perrin, if I understand your report correctly,  
15 you feel that -- it is your opinion that Dr. Ahuja prescribed  
16 or dispensed controlled substances to some people -- patients  
17 outside the usual course of his medical practice; isn't that  
18 right?

19 A. Yes.

20 Q. If I understand your report correctly, correct me if  
21 I'm wrong, this was because he failed to keep the appropriate  
22 proper and necessary records that a doctor should of such  
23 dispensing or prescribing?

24 A. Yes.

25 Q. And if I understand your report correctly, he also

1 is culpable of a violation because he was treating relatives;  
2 is that correct?

3 A. Yes.

4 Q. Now, on page 9, the bottom paragraph of your report,  
5 you state most physicians are not aware that ethical  
6 guidelines on the treatment of non-patients which typically  
7 include family or friends do exist. And then it goes to say  
8 Section E-8.19 of the American Medical Association Code of  
9 Medical Ethics states that, quote, physicians generally  
10 should not treat themselves or members of their immediate  
11 family, close quote, because their professional objectivity  
12 may be compromised in those situations. Exceptions are  
13 allowed for short -- short-term minor problems, and I'm  
14 quoting, quote, short-term minor problems, closed quote, or,  
15 quote, in certain emergency or isolated settings, closed  
16 quote.

17 Now, Dr. Perrin, you are familiar with the four  
18 patients who are related to Dr. Ahuja that were made  
19 reference to in Counts 19, 20, 21, 22 of the Complaint in  
20 this matter; is that correct?

21 A. Yes, through the medical record.

22 Q. And it is your opinion -- is it your opinion that  
23 Dr. Ahuja treated these people outside his usual course of  
24 medical practice because he did not keep a proper chart for  
25 them?

1 A. Yes.

2 Q. And independently of that violation or that failure,  
3 would you say he also treated them outside the course of his  
4 professional course of practice because they were his  
5 relatives?

6 A. Can you restate?

7 THE COURT: Because they were what?

8 MR. GAZIN: His relatives.

9 THE WITNESS: Please restate.

10 BY MR. GAZIN:

11 Q. Did Dr. Ahuja violate medical ethics by treating  
12 these four individuals because they were related to him?

13 A. That's situational.

14 Q. Well, is it your opinion in this case, in this  
15 situation, it was improper for him to treat them because they  
16 were related to him?

17 A. It was the nature of the problem that was the issue.

18 Q. Could you elaborate on that answer a little more?

19 I'm afraid I'm not completely understanding.

20 A. It is what he was treating them for that was the  
21 concern, and the lack therein of adequate medical record to  
22 substantiate the course of treatment.

23 Q. Do I understand you to say that the violation of  
24 ethics or the code that concerns you in this case was -- was  
25 primarily the fact that no chart had been maintained for

1 those four individuals?

2 A. It's that, and based on what you had just read, that  
3 it's ethically advisable to avoid treating one's family  
4 member except in certain prescribed situation as you listed.

5 Q. Well, did you conclude in this case for Dr. Ahuja  
6 that he, in fact, did violate medical ethics in this -- in  
7 the case where these four individuals Jane Doe 1, John Doe --  
8 Jane Doe and John Doe 1, 2, 3, in treating them in this case?

9 A. Yes.

10 Q. Because they were related to him?

11 A. Yes.

12 Q. Now, according to the paragraph of your -- that I  
13 quoted on the bottom of page nine where it states that the  
14 physicians generally should not treat themselves or members  
15 of their immediately families, but it does state that  
16 exceptions are allowed for short-term minor problems.

17 Do you subscribe to that?

18 A. Yes.

19 Q. And were you concluding in rendering your opinion  
20 that there was a violation in this case by Dr. Ahuja treating  
21 these four relatives because they were his relatives, were  
22 you concluding that the treatment that he provided in these  
23 cases were for medical problems that were not minor?

24 A. Correct.

25 Q. Okay. So I understand, the fact that he treated his



1 adopted son, Sonny Ahuja, for a cough, it is your opinion  
2 that a cough is not a minor problem?

3 A. No, that is, but the medication chosen was something  
4 that should be more carefully considered when prescribing for  
5 a family member.

6 Q. Well, then, was the error or the wrong committed by  
7 Dr. Ahuja in that case not that he was treating someone for a  
8 minor matter, but in your opinion, rather, that he did not  
9 prescribe the proper medication for that minor malady?

10 A. Or the medication prescribed was not substantiated  
11 in the record.

12 Q. Okay. So then the error was that Dr. Ahuja failed  
13 to keep proper records?

14 A. Yes.

15 Q. But it is conceivable that if he kept a proper  
16 record, the record might have shown that the medical problem  
17 that was being treated was minor?

18 A. Yes.

19 Q. Thank you. Now, in the course of your  
20 investigation, you -- now, you were investigating as an  
21 expert or recording as an expert both in this case, United  
22 States of America versus Ajay Ahuja, correct?

23 A. Correct.

24 Q. But did you also --

25 THE COURT: Are you up for a reason, sir?

1 MR. SOLOWAY: Yes, Your Honor. I know where the  
2 next question is going. Would the Court prefer I sit?

3 THE COURT: Well, until you have an objection to  
4 make, yeah, I guess I probably would. Otherwise, I think I  
5 have business to attend to. Go ahead, sir.

6 MR. GAZIN: Thank you, Your Honor.

7 BY MR. GAZIN:

8 Q. In addition to your work as an expert investigating  
9 Dr. Ahuja for this case, has the Government, the United  
10 States Government also asked you to prepare a report, an  
11 evaluation regarding Dr. Ahuja's conduct as a physician for  
12 another proceeding that is now pending by the United States  
13 against Dr. Ahuja?

14 MR. SOLOWAY: Objection.

15 THE COURT: I will allow it.

16 THE WITNESS: Yes.

17 BY MR. GAZIN:

18 Q. Now, I'm only asking that so you understand the  
19 question I'm going to ask you now only pertains to the  
20 investigation that you conducted that deals directly with the  
21 allegations and complaints in the case of USA versus Ajay  
22 Ahuja. And I think you understand that.

23 A. Yes.

24 Q. In the course of investigating the allegations of  
25 misconduct that are in USA versus Ahuja, Counts 1 through 23,

1 did you review any records or obtain any information or data  
2 for your investigation that directly affected re -- related  
3 to patients of Dr. Ahuja besides the four Jane or John Does  
4 referred to in this Complaint in this case?

5 A. Yes.

6 Q. Do you recall who they were?

7 MR. SOLOWAY: Objection, Your Honor.

8 THE COURT: Basis?

9 MR. SOLOWAY: Again, it is beyond the scope of this  
10 affidavit. The other charts that Dr. Perrin examined have  
11 nothing to do with the charge that the United States brought  
12 with this particular case. So in terms of relevance and in  
13 terms of beyond the scope of the affidavit.

14 MR. GAZIN: I am going to sustain his objection,  
15 Your Honor, and withdraw my question.

16 THE COURT: I thought I had an answer for him, but  
17 go ahead.

18 MR. GAZIN: I thought I would save everyone some  
19 trouble.

20 THE COURT: Since you paused, we'll take our recess  
21 at this time because of a phone call I have to take. I  
22 expect -- let's say 20 minutes to be certain I'm back. I  
23 don't expect to be any longer than that.

24 Stand in recess. Doctor, you need to be back at 20  
25 past, but you can take a break as well.

1 (Recess taken from 10:58 a.m. until 11:22 a.m.)

2 THE COURT: Dr. Perrin, if you can come back up,  
3 sir. You may continue.

4 MR. GAZIN: Thank you, Your Honor.

5 BY MR. GAZIN:

6 Q. Good morning again, Dr. Perrin. Now, with regard to  
7 the Does, John Doe 1, 2, 3, and Jane Doe 1, to your  
8 knowledge, in the course of your investigation of this case  
9 and the charges, did you -- to your knowledge, did your  
10 investigation -- did you discover or uncover whether those  
11 four Does suffered any actual harm as a result of the  
12 treatment -- medical treatment provided by Dr. Ahuja to those  
13 four individuals as alleged and described in Counts 19, 20,  
14 21 and 22?

15 A. You mean physical harm, mental harm?

16 Q. Yes, physical or mental harm, if that came to your  
17 knowledge.

18 A. Not that was reflected in the record.

19 Q. As far as you know, did these four individuals  
20 receive any benefit from the treatment that they received  
21 from Dr. Ahuja?

22 A. I would have to review the record again, but again  
23 there was -- adequate documentation was lacking to reflect  
24 either response or harm incurred.

25 Q. So it is rather -- it is because of the lack of

1 documentation that it's difficult for you to answer those two  
2 questions that I just asked you about the outcome of the  
3 treatment that Dr. Ahuja provided?

4 A. Correct.

5 Q. So is it correct to say that the essence of your  
6 opinion with regard to the deficiency of Dr. Ahuja in  
7 complying with the rules, the various rules and codes, is  
8 that he failed to keep a record, but it is not that he  
9 actually harmed those patients, to your knowledge?

10 A. To my knowledge, correct.

11 Q. Thank you.

12 MR. GAZIN: That's all my questions.

13 REDIRECT EXAMINATION

14 BY MR. SOLOWAY:

15 Q. Dr. Perrin, was the charting adequate to justify the  
16 dispensation and the writing of prescriptions for John Does 1  
17 through 3 and Jane Doe?

18 A. No.

19 Q. Why was the charting lacking?

20 A. It lacked a substantiation in terms of what we  
21 consider the standard, and that is particularly when choosing  
22 a controlled substance, you have to justify the prescribing  
23 with an adequate history, physical examination, and  
24 assessment and plan with the appropriate follow-up to account  
25 for a dispensation or prescribing of something that can be

1 potentially harmful or addictive.

2 Q. So irrespective of their status as family members of  
3 Dr. Ahuja, the charting would have been inadequate for  
4 anybody to justify the issuance of those controlled substance  
5 prescriptions and the writing of the prescriptions for the  
6 controlled substances?

7 A. Correct.

8 MR. SOLOWAY: Thank you, Your Honor.

9 THE COURT: I just had one question and actually  
10 related to that redirect. Earlier with Attorney Gazin, you  
11 had said that the error was in not making records as opposed  
12 to not properly prescribing the medication.

13 THE WITNESS: Yes.

14 THE COURT: I guess -- I think your answer just  
15 elaborated what I was -- what question came to my mind, but  
16 forget about that. If I were a lawyer, I would be telling me  
17 to stop and ask you the question, so I will do that.

18 If there are no patient -- there are not adequate  
19 patient records, is there any way for you to know that the  
20 patient, the John or Jane Doe, was being treated for a minor  
21 or short-term condition?

22 THE WITNESS: Correct, there would not be.

23 THE COURT: You wouldn't be able to know that?

24 THE WITNESS: Right.

25 THE COURT: So you would not know if the

1 prescription, say, of the cough medicine with codeine was a  
2 proper medically called for prescription?

3 THE WITNESS: Yes.

4 THE COURT: All right. Thank you. I don't know if  
5 you have follow-up, Attorney Gazin.

6 MR. GAZIN: No, Your Honor.

7 THE COURT: Okay. You may step down, Doctor. Thank  
8 you very much. I think that completes the Government's case,  
9 so we'll turn now to Dr. Ahuja's witnesses. I don't know who  
10 the -- the Government, I think, would be the one to decide  
11 who they want to call first.

12 MR. NELSON: We would be calling Attorney Ahuja.

13 THE COURT: Attorney Ahuja, that's his son. I'm  
14 sorry. I was thinking you mean doctor, but you do mean  
15 Attorney Ahuja.

16 Sir, I think you heard me direct folks up here to  
17 the witness stand. If you'd just remain standing so the  
18 clerk may administer an oath to you.

19 NICHOLAS AHUJA,

20 Having been called as a witness, was first duly sworn and  
21 testified on his/her oath as follows:

22 THE WITNESS: Yes.

23 THE CLERK: Please state your name, spell your last  
24 name, city and state of residence.

25 THE WITNESS: Nicholas Ahuja, Stamford,

1 Connecticut.

2 THE COURT: Thank you. You may be seated, Attorney  
3 Ahuja. And give me one moment to get his affidavit out so I  
4 have it in front of me. Sorry. Whenever you are ready.  
5 Attorney Gazin, you may proceed.

6 MR. NELSON: Thank you, Your Honor.

7 THE COURT: Oh, I'm sorry. It is not Attorney  
8 Gazin, it's Attorney Nelson You may proceed.

9 MR. NELSON: Thank you.

10 CROSS-EXAMINATION

11 BY MR. NELSON:

12 Q. Attorney Ahuja, in your affidavit you list that you  
13 are -- I think the term you used is the manager for the  
14 Darien Immediate Care Center; is that correct?

15 A. Yes.

16 Q. What are your responsibilities as manager there?

17 A. I oversee the physician. I oversee the staff. I  
18 ensure that the staff bills the insurance correctly and I  
19 participate in management decisions.

20 Q. And is being a manager of Immediate Care Center,  
21 does that mean that you have to ensure compliance with  
22 regulatory and legal requirements of the Center?

23 A. That includes that, yes.

24 Q. And so is it your practice as a manager to require  
25 that doctors or the doctor at the Darien Immediate Medical



1 Care Center to accurately chart when he sees a patient?

2 A. It is my responsibility.

3 Q. And as part of your management duties there, do you  
4 draw a salary?

5 A. Yes.

6 Q. And what's the ownership structure for Darien  
7 Immediate Medical Care Center?

8 A. It is a limited liability company.

9 Q. How does that work? Who owns the limited liability  
10 company?

11 A. Well, Dr. Ahuja is 50 percent owner then my late  
12 mother is a 50 percent owner and that passed -- my mother's  
13 share passed to the estate.

14 Q. So as it stands right now, though, Dr. Ahuja would  
15 be a 50 percent owner of the Darien Center?

16 A. Yes, that's correct.

17 Q. In your affidavit, you note that you were taking  
18 Zolpidem beginning in the June of 2013, correct?

19 A. That's correct.

20 Q. You had the prescriptions filled for the Zolpidem  
21 at a Stamford Pharmacy on 1055 High Ridge Road?

22 A. Stamford Pharmacy. I don't know the address.

23 Q. Fair enough. And that was the source of where you  
24 obtained that medication that was prescribed by Dr. Ahuja,  
25 correct?

1 A. I'm sorry. Can you repeat that?

2 Q. Let me try again. Dr. Ahuja had prescribed the  
3 Zolpidem, correct?

4 A. That's correct.

5 Q. And those prescriptions you filled at the Stamford  
6 Pharmacy?

7 A. That's correct.

8 Q. You took that medication through 2013 to roughly the  
9 end of that year, right?

10 A. I believe so. I can't recall. I think it was  
11 throughout the remainder of 2013.

12 Q. You're aware as part of this litigation that  
13 Dr. Ahuja was missing 180 Zolpidem pills, correct, from his  
14 practice?

15 A. I can't recall the total number of pills.

16 Q. Suffice it to say you're aware there was a quantity  
17 missing of Zolpidem?

18 A. Yes.

19 Q. Your prescription for Zolpidem, that doesn't account  
20 for the missing pills, does it, correct?

21 A. No.

22 Q. And you don't come here with any personal knowledge  
23 as to what happened to the missing Alprazolam, do you?

24 A. No.

25 Q. Or the hydrocodone?

1 A. No.

2 Q. Your affidavit says that you manage, for lack of a  
3 better term, both your father's legal affairs but also his  
4 financial affairs; is that fair to say?

5 A. His financial affairs?

6 Q. Yes.

7 A. No.

8 Q. So when you say in your affidavit, in paragraph 4, I  
9 have assisted my father in the legal affairs affecting him,  
10 Ahuja Holdings and myself, what do you mean when you say  
11 business matters there?

12 A. Wait. Can I see -- I have paragraph 4 in front of  
13 me.

14 Q. It's on Page 2 of the affidavit?

15 A. Page 2. Now I read it. What's your question?

16 Q. What business do you manage for your father?

17 A. Real estate.

18 Q. Real estate?

19 A. That's correct.

20 Q. What real estate is that?

21 A. It's residential real estate in Stamford,  
22 Connecticut.

23 Q. All right. And do you know the addresses off the  
24 top of your head?

25 A. Yes.

1 Q. What are those addresses?

2 A. 833 High Ridge Road, 831 High Ridge Road, 825 High  
3 Ridge Road, 827 High Ridge Road, 821 High Ridge Road, 825  
4 High Ridge Road and 25 Donata Lane.

5 Q. We established earlier in the day that 25 Donata  
6 Lane is rented out to Uttam Ahuja, correct?

7 A. No.

8 Q. Who lives at 25 Donata Lane?

9 A. Sonny Ahuja.

10 Q. Sorry. I understood them to both live there. But  
11 just Sonny lives there now?

12 A. No, both live there.

13 Q. I see. But it's rented out to just Sonny?

14 A. That's correct.

15 Q. My mistake. But the other properties that you  
16 mentioned, is Dr. Ahuja residing in any of those properties?

17 A. Yes.

18 Q. Which one is that?

19 A. 821 High Ridge Road.

20 Q. Do you reside in one of those properties?

21 A. Yes.

22 Q. Which one is that?

23 A. 821 High Ridge Road.

24 Q. So you both reside together?

25 A. That's correct.

1 Q. The rest of the properties you mentioned, what are  
2 they being used for?

3 A. They are residential that are rented to tenants.

4 Q. And what is the ownership structure for those other  
5 properties?

6 A. They are in a holding company.

7 Q. And what's the ownership structure of the holding  
8 company?

9 A. I am 99 percent owner of the holding company.

10 Q. How did those properties come to be acquired by the  
11 holding company?

12 A. I'm sorry. Can you repeat the question? I didn't  
13 understand it. How did they become acquired?

14 Q. Right. How did the holding company acquire title to  
15 those properties?

16 A. Through a trust.

17 Q. When was that trust created?

18 A. 2009.

19 Q. And that was created by your father and your late  
20 mother?

21 A. No. It was just my father.

22 Q. So is it fair to say that in 2009, your father held  
23 title to all the properties we just mentioned?

24 A. No.

25 Q. Which properties did he hold title to in 2009?

1           A.     It was 825 High Ridge Road, 25 Donata Lane, 815 High  
2 Ridge Road and 833 High Ridge Road.

3           Q.     So I'm a little lost, I have to confess. Which ones  
4 did the trust Ahuja Holding acquire after 2009?

5           A.     Oh, okay. Okay. So you are asking me in 2009 what  
6 are the addresses of the properties that Ahuja Holdings  
7 acquired?

8           Q.     I guess what I'm trying to understand, sir, is --  
9 and I apologize, I'm probably not doing a good job. In 2009,  
10 your father, Dr. Ahuja, held title to a certain number of  
11 properties, correct?

12          A.     Yes.

13          Q.     And they were transferred to a trust which then got  
14 transferred to Ahuja Holdings, correct?

15          A.     That's correct.

16          Q.     What I'm trying to figure out, however you feel is  
17 best to explain to us, what properties did Dr. Ahuja transfer  
18 to that trust which then got transferred to the Ahuja  
19 Holdings?

20          A.     It's 825 High Ridge Road, 815 High Ridge Road, 831  
21 High Ridge Road, 833 High Ridge Road, 25 Donata Lane.

22          Q.     So the 831 High Ridge Road?

23          A.     That's correct.

24          Q.     And the 25 Donata Lane?

25          A.     831 High Ridge Road, 833 High Ridge Road, 25 Donata

1 Lane.

2 Q. Thank you. Sorry about that. I'm impressed you can  
3 do it off the top of your head, quite honestly.

4 At the time of those transfers, do you know the  
5 approximate value of those properties?

6 A. Yes, I know the approximate value at that time.

7 Q. Is it easier for you to give it as a total or per  
8 property or however? It is quite a lot of properties.

9 A. It would be easier if I gave a total.

10 Q. Sure, that's fine.

11 A. But I wouldn't be able to tell you the exact amount,  
12 I will only be able to give you a range.

13 Q. Sure. I understand.

14 A. Between a half a million to 800,000.

15 Q. How did you reach that range?

16 A. How did I reach that range?

17 Q. Right.

18 A. It's through my best recollection of the appraisal  
19 that my dad had done at that time.

20 Q. In looking back at the appraisal, would it surprise  
21 that you 825 High Ridge Road was valued a 560,000 in 2008?

22 A. Yes, that would surprise me.

23 Q. And 833 High Ridge Road was valued at 440,000 in  
24 2008.

25 Do you recall that?

1 A. Do I recall that?

2 Q. Yes.

3 A. I don't understand your question.

4 Q. Okay. Let me ask you -- let me ask it a different  
5 way.

6 Would looking at the appraisal for 825 High Ridge  
7 Road refresh your recollection as to what the appraised value  
8 was?

9 A. Yes.

10 Q. Would that be the same for 833 High Ridge, 815 and  
11 25 Donata Lane?

12 A. Yes. I would need the appraisal to refresh or tell  
13 you what the value of the property is or was at that time.

14 MR. NELSON: Your Honor, may I approach with the  
15 appraisal reports?

16 THE COURT: Yes, you may.

17 BY MR. NELSON:

18 Q. In the interest of time, if you don't mind, I will  
19 just direct the witness. I generally found them on page 4 of  
20 the appraisal reports.

21 Which one are you looking at there, sir?

22 A. I have in front of me 833.

23 Q. 833.

24 In reviewing that appraisal report, does it refresh  
25 your recollection that 833 High Ridge Road was, in 2008,



1 valued at \$440,000?

2 A. Yes, now I see it, yes.

3 Q. And which one is the next one you have?

4 A. I have 825.

5 Q. And in 2008, does that document refresh your  
6 recollection that 825 High Ridge Road was valued at \$560,000?

7 A. That's what it says, that's correct. But these are  
8 not -- this can't be the right value, though.

9 Okay. Yes, I see this says 560.

10 Q. Then we have 815 High Ridge Road?

11 A. No, I have 25 Donata Lane here.

12 Q. And if you look at what is probably on the fourth  
13 page of that document, does it refresh your recollection that  
14 25 Donata Lane in 2008 was valued at \$785,000?

15 A. I have it as 712,000.

16 Q. Okay. For 815 High Ridge Road, does that document  
17 refresh your recollection that in 2008, that property was  
18 valued the \$435,000?

19 A. That's correct.

20 MR. NELSON: May I approach, Your Honor?

21 THE COURT: Yes.

22 BY MR. NELSON:

23 Q. And you would agree with those property assessments?

24 A. Yes.

25 Q. All right. What is the, to the extent you can

1 answer, whether on a monthly or yearly basis, what's the  
2 income generated from those rental properties?

3 A. Well, it would be -- there's -- I wouldn't be able  
4 to tell you without --

5 Q. Is there any way you can give the Court an  
6 estimate?

7 A. Okay. Well, I would have to go by each property.  
8 So let's start with 815 High Ridge Road, that would be \$2600.  
9 Then 25 Donata Lane is \$3,000. I'm talking monthly now.  
10 831, I believe, is 2500. 833 is 2700, and 825 is 3100.

11 Q. For 821, where you and Dr. Ahuja live, does Dr.  
12 Ahuja pay any rent to the Ahuja Trust?

13 A. No. That property is not in the trust.

14 Q. I'm sorry. I thought it was. I apologize.

15 And so the figures you gave us, that's before you do  
16 any maintenance or pay the mortgage or to pay mortgage  
17 servicing?

18 A. That's correct.

19 Q. Do you have an estimate as to what the net down?

20 A. No.

21 Q. Would that be something that your accountant or your  
22 father's accountant would know?

23 A. That's correct.

24 Q. Now in 2009 when the trust and Ahuja family holdings  
25 was created and 99 percent ownership was transferred to you,

1 correct?

2 A. That's correct.

3 Q. Did you give anything in return to your father for  
4 obtaining that property?

5 A. No, it was a gift.

6 Q. If I understand your affidavit correctly, sir, you  
7 also indicated that Dr. Ahuja gave you a significant portion  
8 of money to buy a property in Greenwich?

9 A. That's correct.

10 Q. How much money did he give you?

11 A. \$800,000.

12 Q. When was that?

13 A. 2009, late 2009 or early 2010.

14 Q. Now the Stamford medical practice, who owns that?

15 A. That's my dad.

16 Q. That's not connected with the Ahuja Family Trust?

17 A. No.

18 Q. Do you know how much income that generates?

19 A. No.

20 Q. Is that income divided at all?

21 A. By whom?

22 Q. Meaning I understand that the Darien medical center  
23 is divided 50 percent to your late mother, 50 percent to your  
24 father.

25 Is the Stamford facility divided at all in that

1 manner, the income derived from that?

2 A. No.

3 Q. The assets of the Ahuja Family Trust, I think your  
4 testimony -- you say in your affidavit that the assets are  
5 still intact; is that correct?

6 A. I'm sorry. The assets are still intact?

7 Q. Correct. I think that's the phrase you use in your  
8 affidavit. Meaning the assets used to fund the trust  
9 initially are still intact, correct?

10 A. That's correct.

11 Q. Because you still have the properties?

12 A. They are still there and present.

13 Q. You still own them?

14 A. Ahuja Holdings owns them.

15 Q. Correct. What other assets -- did your father  
16 retain any assets after 2009?

17 A. Not that I know of.

18 Q. Does your father have any other source of income  
19 outside the Darien medical center and the Stamford medical  
20 center?

21 A. Not that I know of.

22 Q. Do you know about his checking or savings accounts?

23 A. Vaguely.

24 Q. Do you know about his -- does he have stock  
25 investments or bonds or mutual funds?

1 A. Yes, I vaguely know about it.

2 Q. Perhaps those questions would be better put to the  
3 accountant. He's here, so that's fine.

4 How about the retirement account?

5 A. Yes, I know a little bit about the retirement  
6 account.

7 Q. What do you know about that?

8 A. That he has one.

9 Q. Fair enough. How about vehicles that your father  
10 owns?

11 A. Interest that my father owns in what?

12 Q. Vehicles?

13 THE COURT: Vehicles?

14 THE WITNESS: He has one vehicle.

15 BY MR. NELSON:

16 Q. What's that, sir?

17 A. It's a BMW.

18 Q. When did he acquire that?

19 A. Either 2004 or 2005.

20 Q. And do you know what your father's, roughly, his  
21 average monthly expenses are?

22 A. For?

23 Q. For his personal day-to-day living?

24 A. I don't know.

25 Q. In your affidavit, you reference the fact that Dr.

1 Ahuja was paying for all groceries, rent, home repairs on the  
2 home that your late mother owned.

3 A. Yes.

4 Q. Is that still the case?

5 A. No. I want to make a correction on this.

6 Q. Certainly.

7 A. Because it was my mom who paid for the groceries.

8 Q. So your mother was paying for the groceries and home  
9 repair, not your father?

10 A. No, the home repairs was by my dad. The groceries  
11 was my mom.

12 Q. I see. What home was that, what address?

13 A. 821 High Ridge Road.

14 Q. Was your father living there prior to your mother's  
15 passing?

16 A. Yes.

17 Q. So at least in terms of what we know, the Ahuja  
18 Family Trust was given, in 2009, based on the appraisals, it  
19 was over \$2 million in property, correct?

20 A. I would have to go back, but that's -- I guess the  
21 appraisals speak for themselves.

22 Q. Fair enough. Then the \$800,000 that was given to  
23 you, was that routed through the Ahuja Family Trust or was  
24 that a gift directly to you?

25 A. That was a gift directly to me.

1 Q. That was also in 2009?

2 A. That was late 2009 or early 2010.

3 MR. NELSON: Nothing further.

4 THE COURT: Any redirect?

5 MR. GAZIN: Yes, Your Honor.

6 REDIRECT EXAMINATION.

7 BY MR. GAZIN:

8 Q. Good morning.

9 A. Good morning.

10 Q. You have been asked questions about the appraised  
11 value of the properties that went into the Ahuja Holdings,  
12 LLC.

13 A. Yes.

14 Q. Do any of these properties -- did any of these  
15 properties, at the time that they were gifted to the Ahuja  
16 Holding, LLC, did any of them have mortgages or other  
17 encumbrances upon them?

18 A. Yes.

19 Q. Do you remember at all the amounts of those  
20 mortgages?

21 A. No.

22 Q. Do you have any idea of the mortgages or  
23 encumbrances that were on those properties?

24 A. I would say about roughly -- if I had put a guess  
25 into it, I would say about half of what the equity is.

1 Q. And so to your knowledge, are mortgages -- mortgages  
2 were being paid on those properties -- let me finish my  
3 question -- mortgages were being paid on those properties at  
4 the time that they were transferred in 2009 to the Ahuja  
5 Holding, LLC?

6 A. Yes.

7 Q. So when you stated initially about the value of the  
8 properties that were transferred to the Ahuja Holdings back  
9 in 2008 or '09 and you said you believed the value was  
10 500,000 to 800,000, was that your opinion of the fair market  
11 value of the aggregate of those properties or was that your  
12 estimate of the equity in those properties?

13 A. Of the equity in the properties.

14 Q. Oh, I see.

15 Now at this time, do you know if any of these  
16 properties in the Ahuja Holdings, LLC, have mortgages on  
17 them?

18 A. Yes.

19 Q. Can you say which of those properties have mortgages  
20 on them?

21 A. Yes. 833, 831, 25 Donata Lane, 825 High Ridge  
22 Road.

23 Q. So you testified about the rents that are received  
24 on these properties by Ahuja Holdings.

25 A. Yes.



1 Q. Does a share of any of those rents then get directed  
2 towards the mortgage payments on these properties?

3 A. Yes.

4 Q. Do you have any idea what portion of those incomes  
5 for rentals then go to pay off mortgages on the properties?

6 A. I can give you a range.

7 Q. Yes, your best estimate.

8 A. About 75 percent.

9 Q. Regarding the management of Ahuja Holdings, I  
10 believe you said you have a 99 percent interest.

11 A. That's correct.

12 Q. Who has the other 1 percent?

13 A. Dr. Ahuja.

14 Q. And who is responsible under the trust agreement  
15 that created Ahuja Holdings, who manages those assets?

16 A. Dr. Ahuja.

17 Q. To your knowledge, has Dr. Ahuja ever reached into  
18 that trust and its assets and removed assets for his own use?

19 A. Not that I know of.

20 Q. Regarding the Stamford Immediate Medical Care  
21 Center, do you know what kind of business entity that  
22 business operation is organized as?

23 A. I believe it's an LLC.

24 Q. And do you know who owns that LLC, who possesses  
25 that?

1 A. Yes, Dr. Ahuja.

2 Q. Does he have any partners, to your knowledge?

3 A. No.

4 Q. So, to your knowledge, does he keep all the revenues  
5 derived from the Stamford Immediate Medical Center?

6 A. Yes.

7 MR. GAZIN: That's all the questions I have. Thank  
8 you.

9 THE COURT: Have you -- sir, if I'm understanding  
10 you correctly, the Ahuja Holdings is the record owner of the  
11 real estate that you have been discussing this morning?

12 THE WITNESS: Yes, that's correct.

13 THE COURT: Ahuja Holdings is held by an irrevocable  
14 trust created by your father in 2009?

15 THE WITNESS: That's correct.

16 THE COURT: You are 99 percent beneficiary of that  
17 trust?

18 THE WITNESS: Yes.

19 THE COURT: He holds a 1 percent interest?

20 THE WITNESS: That's correct.

21 THE COURT: Have monies been distributed from that  
22 trust to anyone since the trust was created?

23 THE WITNESS: No.

24 THE COURT: So to the extent there has been any net  
25 income, in other words, rents less mortgage and upkeep

1 expenses, that money has just accumulated as an asset of the  
2 trust?

3 THE WITNESS: That's correct.

4 THE COURT: Do you have any -- when the trust was  
5 created, beside the Ahuja property real estate that went into  
6 it as an asset, was there cash put into the irrevocable  
7 trust?

8 THE WITNESS: No, just the real estate.

9 THE COURT: Do you have knowledge, either by way of  
10 receiving reports from accountants or otherwise, of what, if  
11 any, cash is in the irrevocable trust at this time?

12 THE WITNESS: I don't have any report --

13 THE COURT: You don't have any knowledge of that?

14 THE WITNESS: I don't have any knowledge about that.

15 THE COURT: That's fine. I don't have any further  
16 questions.

17 MR. NELSON: Nothing further from the Government.

18 MR. GAZIN: Nothing further.

19 THE COURT: You may step down. Thank you very  
20 much.

21 THE COURT: The next witness the Government wishes  
22 to call on cross?

23 MR. SOLOWAY: Dr. Ajay Ahuja.

24 THE COURT: Dr. Ahuja, if you would come up here to  
25 the witness stand. And when you arrive, I'd ask that you

1 remain standing so the clerk may administer an oath.

2 MR. SOLOWAY: Your Honor, before we begin with this  
3 witness, does the Court wish to have Dr. Ahuja sign, under  
4 oath, the affidavit that's been submitted as evidence?

5 THE COURT: We can do that by a question, I think.

6 MR. SOLOWAY: Thank you.

7 THE COURT: Once he's sworn.

8 AJAY AHUJA.

9 Having been called as a witness, was first duly sworn and  
10 testified on his/her oath as follows:

11 THE WITNESS: Yes.

12 THE CLERK: State your name and spell your last name  
13 and where you work.

14 THE WITNESS: Ajay Ahuja. I'm self-employed

15 THE COURT: Thank you. You may be seated, Doctor.

16 Whenever you're ready, Attorney Soloway.

17 CROSS-EXAMINATION

18 BY MR. SOLOWAY:

19 Q. Dr. Ahuja, are you having any difficulty hearing me?

20 A. Not yet.

21 THE COURT: If I can ask you, sir, to please pull  
22 the microphone closer to your mouth because I can't hear you,  
23 much closer than that. If you can slide the chair, that's  
24 fine. Now if you would say something so I can see if I can  
25 hear you.

1 THE WITNESS: No. I can hear you all right.

2 THE COURT: So if you hear yourself through the  
3 hearing aids, then you know I can hear you. If you don't  
4 hear yourself through the device, then it means we can't hear  
5 you, all right, sir, and you have to get closer. Right now,  
6 you are perfect.

7 Go ahead, sir.

8 MR. SOLOWAY: Thank you, Your Honor.

9 BY MR. SOLOWAY:

10 Q. Dr. Ahuja, you submitted an affidavit in this case  
11 dated March 1 of 2017, correct?

12 A. Okay. Yes, yes.

13 Q. Do you swear that the affidavit that you signed is  
14 to the truth to the best of your knowledge?

15 A. That's correct.

16 Q. Now this morning -- or actually just moments ago,  
17 you took an oath to tell the truth, correct?

18 A. Yes.

19 Q. And you were deposed at the office of the United  
20 States Attorney in this matter on March 15, 2016, correct?

21 A. I don't remember.

22 Q. Before you were deposed, sir, did you swear to tell  
23 the whole truth and nothing but the truth?

24 A. When I was deposed, yes.

25 Q. You remember being deposed, irrespective of maybe

1 not remembering the specific date; is that a fair statement?

2 A. Yes.

3 Q. And you remember that you were there, your son,  
4 Nicholas, was there, an intern in the office by the name of  
5 Albert Peck, myself and Investigator Johnson; is that true?

6 A. Besides that, other people, too, I think.

7 Q. Were all those people there, sir?

8 A. I think Miss Lele was there. And my attorney were  
9 there.

10 Q. Have you read Investigator Johnson's affidavit in  
11 the case?

12 A. Say that again.

13 Q. Sure. Investigator Johnson submitted an affidavit  
14 in this case, did she not?

15 A. I don't know anything about that.

16 Q. Did you read any affidavits in this case other than  
17 your own?

18 A. I don't understand the question.

19 Q. Sure. You submitted an affidavit in this case, did  
20 you not?

21 A. Yes, I did.

22 Q. Did anybody else submit an affidavit?

23 A. Besides me?

24 Q. Yes, sir.

25 A. A lot of people. Everybody.

1 Q. My question to you --

2 A. Like Nicholas Ahuja.

3 Q. -- did you read Investigator Johnson's affidavit in  
4 this case?

5 A. No.

6 Q. Now in the affidavit that you submitted to this  
7 case, you stated that you were not aware of the regulations  
8 imposed upon you as a DEA registrant; is that correct?

9 A. That's correct.

10 Q. You also admitted in that affidavit to the charges  
11 against you, correct, at paragraph 6?

12 A. That's correct.

13 Q. When you attended primary school in India and  
14 secondary school India, the language of instruction was in  
15 English, correct?

16 A. Yes.

17 Q. And when you attended medical school, the course of  
18 instruction was in English, correct?

19 A. That's correct.

20 Q. And in your family home in India, prior to your  
21 immigrating to the United States, you and your family spoke  
22 English, correct?

23 A. Yes.

24 Q. When you were an intern at Laguardia Hospital in New  
25 York City, you spoke English to your instructors and your

1 colleagues, did you not?

2 A. Yes.

3 Q. You had a residency in Englewood Hospital in New  
4 Jersey.

5 When you were at Englewood Hospital, did you speak  
6 English to your colleagues and to your patients?

7 A. Yes.

8 Q. Paragraph 5, Doctor, you admit to the violations of  
9 the law detailed in each and every count of the complaint.

10 Didn't you say that?

11 Let me correct that, it's paragraph 6.

12 A. Paragraph 6?

13 Q. Yes.

14 A. What's the question?

15 Q. Did you admit to violating each and every count  
16 alleged in the Government's complaint against you?

17 A. Most of it.

18 Q. Most of it?

19 A. (Nodding head).

20 MR. SOLOWAY: If I can have a second, Your Honor.

21 THE COURT: You may.

22 BY MR. SOLOWAY:

23 Q. Doctor, you appeared before this honorable court on  
24 November 22, 2016, correct?

25 A. Yup.



1 Q. In fact, in that room directly to your left,  
2 correct?

3 A. Okay, yes.

4 Q. About 12 feet from where you are now, correct?

5 A. Yes, correct.

6 Q. Prior to your speaking with specificity as it  
7 relates to the complaint, Judge Hall swore you in as a  
8 witness, correct?

9 A. Yes, correct.

10 Q. And on November 22, 2016, you admitted to each and  
11 every count of the Government's complaint against you,  
12 correct?

13 A. But --

14 Q. Did you, yes or no?

15 A. No.

16 Q. No?

17 So you are telling the Court now that on November  
18 26, you didn't admit to each and every count of the  
19 complaint?

20 A. This is something that I notice is not right.

21 Q. What's not right, sir?

22 A. I will tell you which one is not right. Okay.  
23 Number 7B.

24 THE COURT: What are you referring to?

25 THE WITNESS: My affidavit.

1 BY MR. SOLOWAY:

2 Q. So you are saying that 7B of the affidavit is  
3 incorrect?

4 A. Yes.

5 Q. This is the affidavit that you signed and read prior  
6 to submitting it to the Court?

7 A. I just noticed it.

8 Q. You just noticed it now?

9 A. Yes.

10 Q. At that's after you swore to its accuracy, correct?

11 A. Yes.

12 MR. SOLOWAY: If I can have a moment to look for the  
13 page number, Your Honor.

14 THE COURT: Yes.

15 BY MR. SOLOWAY:

16 Q. So is it your statement today, Doctor, that you  
17 didn't admit to liability for each and every count on  
18 November 22 after being sworn in by Judge Hall?

19 A. Except this B I'm talking about.

20 Q. Page 7B, sir, is an affidavit that you signed and  
21 submitted within the last week and a half.

22 My question to you, sir, is different.

23 A. Is different.

24 Q. When you appeared before Judge Hall on November 22,  
25 2016 and were sworn, didn't you admit to violating every

1 count of the Government's complaint?

2 A. I did.

3 Q. What was the answer, sir? I didn't understand you.

4 THE COURT: I did.

5 MR. SOLOWAY: Thank you.

6 BY MR. SOLOWAY:

7 Q. Now, Doctor, we heard from Investigator Johnson this  
8 morning. And we learned from her that you could not account  
9 for approximately 5300 Xanax tablets; is that correct?

10 A. I didn't hear that. So I couldn't tell you.

11 Q. Isn't it a fact, sir, that as a result of the audit  
12 that Investigator Johnson and the Agent Lele did, that you  
13 could not account for approximately 5,300 Xanax tablets?

14 A. Okay.

15 Q. Is that a yes, sir?

16 A. I don't know the answer to it because I don't know  
17 what she said at that time.

18 Q. My question to you, sir, is, did you account for all  
19 the Xanax that you purchased?

20 A. No.

21 Q. And isn't a fact, sir, that you couldn't account for  
22 5300 tablets?

23 A. Could be possible, yes.

24 Q. You stated, sir, at the deposition that you treated  
25 yourself for depression, did you not?

1 A. Yes, I did.

2 Q. And you stated that you were in the best position to  
3 treat yourself for depression and you were in the best  
4 position to see how effective your medication was, correct?

5 A. Yes, correct.

6 Q. You also stated at the deposition that you're  
7 competent to treat yourself for high blood pressure, correct?

8 A. That's not correct.

9 Q. That's not correct?

10 "Question. Is there a reason that you didn't seek  
11 treatment by another physician?

12 Answer: I think I'm competent to control the blood  
13 pressure or control my depression. I believe I'm the best  
14 person to know how the depressant -- depression medicine is  
15 working."

16 Were you asked that question and did you give that  
17 answer?

18 A. Yeah, I give the answer, yes. You asked me about  
19 blood pressure medication, which the answer is no.

20 Q. Sir, didn't your admission that I just read to you  
21 talk about both depression and blood pressure?

22 A. Blood pressure medicine was given to me by Greenwich  
23 Hospital.

24 THE COURT: The question, though, sir, is whether,  
25 as he read the question and your answer, did he read that

1 correctly, is that the answer you gave at this prior time  
2 that he's reading?

3 THE WITNESS: No, no, I didn't give this answer. I  
4 told him that Greenwich Hospital gave me this.

5 BY MR. SOLOWAY:

6 Q. Sir, let me read from the deposition again. Let me  
7 read from the deposition again?

8 A. You can --

9 Q. "Question. Is there a reason that you didn't  
10 seek --

11 Sir, I will tell you we are reading from Page 15,  
12 Lines 12 through 15 from your deposition, sir. When you are  
13 there, let me know and then I will put the question to you.  
14 When you were at that point, please look up and let me know.

15 A. Say the page again.

16 Q. Page 18, Lines 16 and 17 was the question, and lines  
17 18 to 21 is the answer. When you locate that spot in the  
18 transcript, please look up and let me know.

19 A. Okay.

20 Q. Were you asked this question and did you give this  
21 answer?

22 "Is there a reason that you didn't seek treatment by  
23 another physician?

24 Answer: I think I'm competent to control the blood  
25 pressure. I control my depression. I believe I'm the best

1 person to know how the depression medicine is working."

2 Were you asked that question and did you give that  
3 answer?

4 A. Again, I don't know which one is that.

5 Q. Sir, look at Lines 18 through 21 on Page 15.

6 MR. SOLOWAY: Your Honor, may I approach to point  
7 out the spot?

8 THE COURT: You may.

9 THE WITNESS: Yes, I see it now.

10 BY MR. SOLOWAY:

11 Q. Were you asked that question and did you give that  
12 answer?

13 A. Yes, I did.

14 Q. You were taking Xanax for your own personal use that  
15 you ordered to your office, were you not?

16 A. No.

17 Q. You didn't take any Xanax and dispense it to  
18 yourself?

19 A. No. I took Xanax, I believe, after the investigator  
20 came in.

21 Q. After the investigator came. So your statement to  
22 the Court this morning, or this afternoon, is that you never  
23 took Xanax from the stock that you had on hand at your  
24 immediate care medical practice?

25 A. No, I didn't.

1 Q. Now, Doctor, at the deposition where you were sworn,  
2 you told me and all present that you stopped taking Xanax  
3 after the investigators left; isn't that a fact?

4 A. No.

5 Q. At some point, Doctor -- is it a fair statement,  
6 Doctor, at some point between 2012 and when the investigators  
7 left your office in 2014, you were dispensing Xanax to  
8 yourself?

9 A. No, it is not correct.

10 Q. What happened to the 5,300 missing Xanax?

11 A. I have a theory, but I didn't take it myself.

12 Q. Do you know --

13 THE COURT: I'm sorry, I --

14 THE WITNESS: I can tell you what I think what  
15 happened to that.

16 BY MR. SOLOWAY:

17 Q. Tell us. Go ahead.

18 A. There was a lady who worked for me and she, I  
19 believe -- she also stole my checks and she -- I believe that  
20 she took a box of the whole medication with her, and I -- she  
21 lasted a few days because she just copied my check to pay her  
22 rent, so I fired her and I also reported her to the police.

23 Q. Did you report the loss of the controlled substance  
24 to either the Drug Enforcement Administration or State Drug  
25 Control?

1 A. I didn't even know that it was gone.

2 Q. Sir, yes or no? Did you report the theft that you  
3 allege happened to either DEA or State Drug Control?

4 A. I think it is the wrong question to ask.

5 Q. Sir, please answer my question. Did you report it  
6 to DEA?

7 A. No.

8 Q. Did you report to it to State Drug Control?

9 A. No, because I didn't know.

10 THE COURT: He doesn't -- you have to just answer  
11 his question, Doctor. He didn't ask you why didn't you  
12 report it. That would be because you didn't know. He asked  
13 you did you report it, which calls for a yes or no answer  
14 usually. So you have answered it, that's fine, but you  
15 didn't don't need to tell him the answer to a question that  
16 he didn't ask. Okay, sir.

17 THE WITNESS: Okay.

18 THE COURT: Thank you. Go ahead.

19 BY MR. SOLOWAY:

20 Q. Doctor, look at Page 17, Lines 19 through 22 of the  
21 deposition. And when you reach that point that you have  
22 gotten to that page and line number, I will put a question to  
23 you.

24 A. Yes, I have Page 17 in front of me. Yes, sir.

25 MR. SOLOWAY: Excuse me, Your Honor.



1 BY MR. SOLOWAY:

2 Q. "Question: Okay. Why don't you explain that to me?

3 Answer: When I had supply in my office, I continued  
4 to take it from the office. When I'm finished with the  
5 supply, then I went to -- I didn't order any more. I went to  
6 get it from the pharmacy."

7 Doctor, were you asked that question and did you  
8 give that answer? You can look at the transcript.

9 A. What's the question?

10 Q. The question is when you were at the deposition,  
11 were you asked this question and did you give this answer?  
12 I'm going to be reading from Page 17, Lines 19 through 22 of  
13 the deposition.

14 "Question. Why don't you explain that to me?

15 Answer: When I had supply in any office, I  
16 continued to take it from the office. When I'm finished with  
17 the supply, then I went to -- I didn't order any more, I went  
18 to get it from the pharmacy."

19 Were you asked that question at the deposition and  
20 did you give that answer?

21 A. Yes.

22 Q. The only reason, Doctor, that you stopped taking  
23 controlled substances was that you were visited in the early  
24 part of 2014 by Investigator Johnson and Agent Lele, correct?

25 A. No. That's why I started.

1 Q. That's when you started. Why did you think that  
2 Investigator Johnson and Agent Lele were there to visit you  
3 in the early part of 2014?

4 A. You have to ask them.

5 Q. Sir. Page 126, Lines 18 to 24. And when you reach  
6 that point in the transcript, sir, let me know and I will put  
7 the question to you.

8 A. I'm at Page 126.

9 Q. Look at Line 18 to 24. When you're reached that  
10 point, I'll put a question to you.

11 A. I'm already there.

12 Q. Doctor, were you asked this question and did you  
13 give this answer?

14 "Okay. Why?

15 Because of -- I was when they came in. I finished  
16 -- I was kind of irritated because I finished the long battle  
17 with Heather Lindsey a few months ago, and she threatened  
18 that she will call the authorities. And when they came in,  
19 my mindset was this is all Heather Lindsey."

20 Were you asked that question and did you give that  
21 answer?

22 A. Yes.

23 Q. And did you learn later on that Investigator Johnson  
24 and Agent Lele visited you not as a result of information  
25 provided to them by Ms. Lindsey but rather as a result of

1 information given to them by State Probation Officer  
2 Clemenson?

3 A. I don't know that.

4 Q. Sir, you know that there was an administrative  
5 inspection warrant signed by Magistrate Judge Margolis in  
6 this case, was there not?

7 A. Yes.

8 Q. Did you read the affidavit in support of that  
9 administrative inspection warrant?

10 A. The affidavit that came with this? You're talking  
11 about --

12 Q. Sir, there was an affidavit submitted in support of  
13 the administration inspection warrant, correct?

14 A. They didn't let me read the affidavit.

15 Q. So you are not aware that in the affidavit  
16 Investigator Johnson relates that she received information  
17 from a Probation Officer Clemenson?

18 A. No.

19 Q. You drank alcohol at least three times a week,  
20 correct?

21 A. I stopped.

22 Q. And in addition to dispensing controlled substances  
23 to your family members, you would on occasion write  
24 prescriptions for them when you didn't have those substances  
25 in stock, correct?

1 A. Correct.

2 Q. And you would write controlled substance  
3 prescriptions for them, and on occasion you would dispense to  
4 your family members from the materials that you had on hand  
5 at your practice, correct?

6 A. Yes, correct.

7 Q. Initially, Doctor, you told Investigator Johnson and  
8 Agent Lele that you don't treat family members because if  
9 something went wrong then you'd have to live with the guilt.  
10 Is that true that you said that to them?

11 A. Mostly, I don't. My answer was mostly I don't treat  
12 the family member.

13 Q. Did you tell -- take a look at Page 99, Lines 7 to  
14 23. When you get to that page in the transcript, let me know  
15 and I will put the question to you.

16 A. Yes. What's -- what's your question?

17 Q. I will read the series of questions, then I will  
18 read the series of answers.

19 "Question: Now, Doctor, when you first spoke to  
20 Agent Lele, Investigator Johnson, you told them that you  
21 generally didn't dispense drugs from your office because you  
22 didn't want that responsibility, correct?

23 Answer: Not correct.

24 Question: So you never told them that?

25 Answer: No.

1           Okay. Why did you tell the investigators that you  
2 were not treating family members?

3           Answer: I told the investigators I don't treat my  
4 family members because if something goes wrong I have to live  
5 with the guilt."

6           Were you asked those questions and did you give  
7 those answers?

8           A. Yes.

9           Q. Doctor, you dispensed controlled substances to your  
10 family members whenever you had adequate stock on hand at  
11 your practice, correct?

12          A. Yes, correct.

13          Q. Dr. Ahuja, do you know what a term called doctor  
14 shopping is?

15          A. Yes, I do.

16          Q. What's doctor shopping?

17          A. When the patient goes from one doctor to another  
18 doctor.

19          Q. Now, it is important to determine if your patients  
20 that you dispense controlled substances to or wrote  
21 prescriptions for, it is important for you to know whether  
22 they are getting the same or similar controlled substances  
23 from another doctor. Is that a fair statement?

24          A. Yes.

25          Q. And it goes towards making sure that your patients

1 are being given controlled substances and not seeking out  
2 those same controlled substances elsewhere; isn't that  
3 correct?

4 A. That's correct.

5 Q. Now, the Connecticut PMP, the Prescription  
6 Monitoring Program, allows a doctor to determine if a  
7 physician or other medical professional is prescribing  
8 controlled substance to your patients, correct?

9 A. Yes.

10 Q. And you didn't query the Connecticut PMP for any of  
11 the 43,000 dosage units of Xanax that you dispensed to your  
12 patients, correct?

13 A. No, it's not correct.

14 Q. It's not correct. When did you query the  
15 Connecticut PMP for the first time?

16 A. It's got to be back in 2012.

17 Q. That's not true, is it, Doctor? Because the  
18 Connecticut PMP would have a record of your making a query,  
19 would it not?

20 A. Say that again.

21 Q. Surely.

22 MR. SOLOWAY: If I can have Ms. Fidanza read the  
23 question back.

24 THE COURT: The question he wants to answer now is:  
25 That's not true, is it, Doctor, because the Connecticut PMP

1 would have a record of your making a query, wouldn't it?

2 A. Of course.

3 Q. Did you ever upload any data to the Connecticut PMP  
4 for the drugs that you dispensed directly from your practice  
5 to your patients?

6 A. No.

7 Q. So by failing to upload the data to the Connecticut  
8 PMP, you weren't enabling other physicians to get a true  
9 picture of whether or not your -- those patients were  
10 receiving drugs from more than one source?

11 A. True.

12 Q. Now, in addition to the Xanax that you can't account  
13 for, you couldn't account for hydrocodone bitartrate with  
14 acetaminophen, correct?

15 A. Correct.

16 Q. And the same for guaifenesin with codeine, correct?

17 A. Correct.

18 Q. The Stamford Immediate Care Medical Center, your  
19 practice that is the subject of the litigation here is a  
20 practice that's supposed to focus on accidents and other  
21 emergent matters, correct?

22 A. All kind of matter.

23 Q. But the very name Stamford Immediate Medical Care  
24 suggests that as a result of some trauma, individuals,  
25 patients need your medical assistance, correct?

1 A. No, it is not correct.

2 Q. It is not correct. Okay. Why would a physician  
3 that operates an immediate care medical clinic, what would  
4 the need for that physician to order testosterone like you  
5 did?

6 A. Initially when I started, I started as immediate  
7 medical care center back in 1988. Then it became more like a  
8 family practice.

9 Q. You didn't change the name of the practice, did you?

10 A. No, I didn't.

11 Q. The sign on top of the building still read Stamford  
12 Immediate Care Medical Center, correct?

13 A. Correct.

14 Q. In the treatment of accidents, what is the necessity  
15 for purchasing testosterone?

16 A. Like I said, I became a family physician.

17 Q. Without changing the name of your practice, correct?

18 A. That's correct.

19 Q. Now, you are the holder of something called an  
20 X endorsement to your DEA registration, correct?

21 A. That's correct.

22 Q. The X endorsement allows you to prescribe to  
23 Suboxone to some of your patients, correct?

24 A. That is correct.

25 Q. Suboxone is used to treat individuals that are



1 addicted to opioids, are they not?

2 A. Yes.

3 Q. You are not certified in addiction medicine, are  
4 you?

5 A. No, I'm not.

6 Q. You are not certified in the internal medicine, are  
7 you?

8 A. No. I'm certified in urgent care medicine.

9 Q. Sir, do you hold any certification by any recognized  
10 body in the United States?

11 A. Urgent care medication.

12 Q. Pardon me?

13 A. Urgent care medicine.

14 Q. I -- I --

15 A. Urgent care --

16 Q. Are you certified by that?

17 A. Yes, I was -- I am board certified and I did not  
18 renew it. So at this point, I'm not.

19 Q. You are not certified. But you are not certified by  
20 the board on internal medicine, correct?

21 A. Yes, that's correct.

22 Q. You are not certified as an addictionologist,  
23 correct?

24 A. That's correct.

25 Q. And is it true, sir, that you never ordered Suboxone

1 from either of the two principal drug wholesalers that you  
2 dealt with?

3 A. Why should I order?

4 Q. Sir, my question to you is: Did you order Suboxone  
5 to be dispensed from your medical practice?

6 A. No, I did not.

7 Q. The reason that you didn't order the Suboxone from  
8 either of your two principal suppliers is that you knew that  
9 it would require DEA to conduct more intense review of your  
10 medical practice, correct?

11 A. No, that's not correct.

12 Q. So with Suboxone, you would write prescriptions and  
13 your patients would then have those prescriptions filled  
14 elsewhere?

15 A. That's correct.

16 Q. Did your Suboxone patients pay for the bills -- or  
17 pay for your services the same way that your other patients  
18 did?

19 A. That's correct.

20 Q. Isn't it a fact, sir, that you charged your Suboxone  
21 patients cash?

22 A. That's depending if there's insurance, they pay by  
23 -- the co-payment.

24 Q. How many of your Suboxone patients did you take cash  
25 from in return for the services that you gave them in

1 addition to writing the prescriptions?

2 A. None of them.

3 Q. None of them? So you are telling me, now, sir, that  
4 all of your Suboxone patients had insurance?

5 A. No, I didn't say that.

6 Q. How much of your Suboxone patients paid cash?

7 A. Maybe 10 percent, 20 percent.

8 Q. Doctor, you transferred -- withdrawn.

9 We heard from your son Nicholas earlier in the day.  
10 We heard some testimony about the creation of the Ahuja  
11 Family Trust, correct?

12 A. Yes, that's correct.

13 Q. You created the Ahuja Family Trust at or about the  
14 same time that you began to have a legal entanglement with  
15 Ms. Lindsey, correct?

16 A. I think it was before that.

17 Q. Isn't it a fact, sir, that the Ahuja Family Trust  
18 was set up shortly -- began shortly after you began to have  
19 legal difficulties with Ms. Lindsey?

20 A. No, I don't remember that.

21 Q. You transferred the assets to the Ahuja Family Trust  
22 in an attempt to shield those assets from potential judgment  
23 by Ms. Lindsey; isn't that correct?

24 A. That's not correct.

25 Q. What type of car do you drive, sir?

1 A. BMW.

2 Q. That's a 2000 --

3 A. '4 --

4 Q. -- Mercedes, BMW?

5 A. 2004 635.

6 Q. And do you own any other cars?

7 A. Yes, a Mercedes 500sl.

8 Q. Isn't it true, sir, that at present you drive the  
9 Mercedes and that the BMW is in your driveway and is not  
10 registered?

11 A. That's correct.

12 Q. Okay. What's the license plate number of the BMW?

13 A. It's A-J-A-Y dot M-D.

14 Q. So it is Ajay, which is your first name, correct?

15 A. Yes.

16 Q. And M.D. is the initials for a physician, correct?

17 A. Yeah.

18 Q. When was the last time that you bought a motor  
19 vehicle of any kind?

20 A. 2004.

21 Q. And we heard testimony from Nick this morning that  
22 he used cash that you had given him to purchase a condo in  
23 Greenwich, correct?

24 A. Yes, Nick said that, yes.

25 Q. Now, your adjusted gross income for the last three

1 years is approximately \$500,000, correct?

2 A. Correct.

3 Q. Have you traveled internationally within the last  
4 three to five years?

5 A. Internationally?

6 Q. Yes, sir.

7 A. Yes.

8 Q. How many times and where to?

9 A. I went to -- twice to -- I'm blocking the name of  
10 the country. It will come to me. I can tell you in a  
11 minute.

12 Q. You traveled internationally at least twice?

13 A. Yes.

14 Q. Did you go back to India during the last three to  
15 five years?

16 A. No, I didn't.

17 THE COURT: Could I ask, the answer about your  
18 adjusted gross income for the last three years is  
19 approximately 500,000. Is that a total of the three years?

20 THE WITNESS: I don't know. He said I --

21 MR. SOLOWAY: Yes, Your Honor.

22 THE COURT: Thank you. That's what I thought from  
23 the affidavit. Go ahead.

24 BY MR. SOLOWAY:

25 Q. Doctor, in addition to Stamford Immediate Medical

1 Care, you own another immediate medical care facility in  
2 Darien, correct?

3 A. Yes, correct.

4 Q. And before your ex-wife passed away, you owned that  
5 center with her, correct?

6 A. I don't know. Say that again, please.

7 Q. Your ex-wife passed about six months ago?

8 A. Two months ago.

9 Q. Two months ago. In 2016 -- or prior to Thanksgiving  
10 of 2016, who owned Darien Immediate Medical Care?

11 A. Me and her. Myself and her.

12 Q. And who owns the building that Darien Immediate  
13 Medical Care is located in?

14 A. I think some LLC. I don't -- LVC, LLC.

15 Q. Do you own the building that it's in, or do you rent  
16 from somebody?

17 A. We rent from somebody.

18 Q. Now -- withdrawn.

19 MR. SOLOWAY: Your Honor, if I can have a moment to  
20 consult with counsel.

21 THE COURT: Yes.

22 BY MR. SOLOWAY:

23 Q. Now, Dr. Ahuja, you mentioned in response to some  
24 questions of mine earlier that you thought a former employee  
25 took the missing Xanax, correct?

1           A.     Missing the whole box, including -- could be any  
2     medicines.

3           Q.     Now, Doctor, you weren't just missing Xanax, you  
4     were missing several other drugs, correct?

5           A.     That's what -- all in the box.

6           Q.     Is it your testimony that all the other missing  
7     medication was taken by that same person?

8           A.     Yes.

9           Q.     Did that person ever get charged?

10          A.     I don't know.

11          Q.     Did you make a complaint to the police that resulted  
12     in someone being arrested?

13          A.     I made a complaint. That's my job. That's it.

14          Q.     Was the person, to your knowledge, arrested?

15          A.     No, I don't know.

16                 THE COURT: Could I just inquire is -- in the  
17     complaint you made to the police, did you specifically  
18     identify medication that you believed was taken by the former  
19     employee?

20                 THE WITNESS: At that point, I didn't know the  
21     medication was missing. I fired her because of the check  
22     that she stole.

23                 THE COURT: That's fine. Then the answer to my  
24     question is you didn't include it because you didn't know it?

25                 THE WITNESS: Yeah. It took me four months to find

1 out.

2 BY MR. SOLOWAY:

3 Q. Doctor, you didn't do a biennial inventory -- you  
4 hadn't done a biennial inventory at the time DEA came to your  
5 office in January of 2014, correct?

6 A. Yeah, correct.

7 Q. Wouldn't the biennial inventory had alerted to the  
8 potential theft of medication?

9 A. That's correct.

10 MR. SOLOWAY: Thank you, Your Honor.

11 THE COURT: Redirect, sir.

12 MR. GAZIN: Yes, Your Honor.

13 REDIRECT EXAMINATION.

14 BY MR. GAZIN:

15 Q. Dr. Ahuja, you were asked if, in this courthouse, in  
16 Judge Hall's chambers, whether you admitted to liability on  
17 the charges against you.

18 Do you recall being asked that by Attorney Soloway?

19 A. Yes.

20 Q. You acknowledged that you were guilty of most of  
21 them, but not all of them; is that correct?

22 A. Yes.

23 Q. Just to clarify matters, which -- or of any of these  
24 charges that are against, you do you not think you were  
25 guilty of?



1 A. If you look at page 3B.

2 Q. On page 3, yes, what paragraph?

3 A. B. It says, I did not properly separate the record  
4 from controlled substance three to five from noncontrolled  
5 substance as required by law.

6 That's not correct. Because the law says that if  
7 it's easily retrievable, I don't have to separate it.

8 Q. You thought that -- and it is your opinion that  
9 these records were easily retrievable?

10 A. Yes.

11 Q. But you did acknowledge on the record liability?

12 A. Yeah, because I didn't really -- I went back and  
13 look at -- it was easily retrievable or not. And I found out  
14 that this is not a true statement.

15 MR. GAZIN: Your Honor, may I have moment to -- I  
16 know this is unusual, but may I speak with my client?

17 THE COURT: No, you can't.

18 MR. GAZIN: I thought so, but I had to ask.

19 BY MR. GAZIN:

20 Q. Dr. Ahuja, are you withdrawing your prior plea of  
21 culpability or guilt to all the charges?

22 A. Not all the charges except this charge.

23 Q. I see. All right.

24 Let me ask you this -- I don't know how to put it.  
25 I will just continue with my questions.

1           You testified just now on examination from Attorney  
2 Soloway that you commenced taking Xanax after the first visit  
3 or the investigation commenced from the DEA officers in  
4 January or February of 2014; is that correct?

5           A.    Yes, that's correct.

6           Q.    Why did you commence taking Xanax at that time?

7           A.    Well, I was finishing with the Heather Lindsey  
8 situation, which was very stressful as it is, on the top of  
9 DEA's coming to my office and trying to take my license away.  
10 Ms. Johnson asked me, can you give me your license?

11                   And it was very -- it's my livelihood.  So it's a  
12 very stressful situation.  So I had to take Xanax.  And then  
13 I discontinued it.

14           Q.    Let me ask you:  For how long a period of time were  
15 you taking Xanax?

16           A.    I think a year and a half.

17           Q.    All right.  And -- but you stopped?

18           A.    Yes.

19           Q.    And you say that you think you were taking it for  
20 about a year and a half?

21           A.    I would say that, yes.

22           Q.    Why, after taking it for a year and a half, did you  
23 then stop taking Xanax?

24           A.    I don't like to take medicine, as per se.  So I  
25 think, this is a controlled substances, this may be addictive

1 to me, to my job, may be affecting my job or something, so I  
2 said, let me cut it out.

3 Q. Did you have any difficulty in ceasing to take  
4 Xanax?

5 A. No, I didn't, but there was no problem.

6 Q. When you stopped taking the Xanax, did you then take  
7 any other medication in place of the Xanax to deal with your  
8 mental state?

9 A. No.

10 Q. Are you taking anything now for depression?

11 A. I'm taking Duloxetine.

12 Q. When did you start taking Duloxetine?

13 A. That was a long time. I can't remember, for five  
14 years, maybe. Four years. Duloxetine also helps the  
15 anxiety. So I think that's the best for me, to take  
16 Duloxetine than take Xanax.

17 Q. Okay. Now you have testified that you think or you  
18 believe that the reason the medications -- controlled  
19 substances that are missing are missing is because you  
20 suspect they were taken by a former employee?

21 A. That's correct.

22 Q. And you have also testified that you did not report  
23 that loss to the police?

24 A. Yes, that's correct.

25 Q. You didn't report it to the DEA?

1 A. Yes, that's correct.

2 Q. Why did you not report it to the DEA?

3 A. Because at that time, I didn't know it was stolen.

4 Q. When you did find out it was stolen, did you report  
5 it to the DEA?

6 A. No, I didn't.

7 Q. Why did you not report it to the DEA, that is this  
8 loss or missing drugs once you did discover they were  
9 missing?

10 A. Well, I didn't know I have to do that.

11 THE COURT: Did you report it to the police,  
12 supplement your report?

13 THE WITNESS: I report to the police about the  
14 check.

15 THE COURT: That's not my question. I will be more  
16 clear.

17 Did you supplement your report to the police about  
18 the drugs?

19 THE WITNESS: No, I did not.

20 BY MR. GAZIN:

21 Q. You were asked by Attorney Soloway why you didn't  
22 purchase Suboxone for your practice from the two primary  
23 suppliers from whom you purchased your other controlled  
24 substances.

25 Do you recall being asked about that?

1 A. Yes.

2 Q. Can you state why it was that you did not purchase  
3 your Suboxone from the two primary suppliers from whom you  
4 purchased your other controlled substances?

5 A. The question is why?

6 Q. Why did you not purchase your Suboxone from the two  
7 major suppliers from whom you purchased your other controlled  
8 substances that you dispensed from your practice?

9 A. Suboxone is very expensive to keep. And when the  
10 other controlled substance comes in, they come in prepacked.  
11 Suboxone doesn't -- if I get prepacked, I cannot open and  
12 give part of it. Because every patient needs -- sometime you  
13 have to start the patient with, say, 8 milligram. The next  
14 time, you have to maybe 12 milligram or 4 milligram. So dose  
15 varies every time.

16 So I can't keep all 2 milligram, 4 milligram, 8  
17 milligram. It is expensive, and they don't come in  
18 prepacked. So I can't really dispense it.

19 Q. My question is, why did you buy -- do you recall  
20 from whom you purchased your Suboxone?

21 A. I never purchased Suboxone.

22 Q. I'm sorry. I couldn't hear your answer.

23 A. I never purchased Suboxone.

24 Q. So you never dispensed Suboxone from your office?

25 A. No.

1 Q. So are you saying that whenever Suboxone was  
2 indicated for any of your patients, you prescribed it?

3 A. Yes.

4 Q. So all of your patients obtained the Suboxone that  
5 you thought they should have from pharmacies?

6 A. Yes.

7 Q. Attorney Soloway seemed to be implying that the  
8 reason why you did not dispense -- no. I withdraw that  
9 question.

10 So let me just make sure I'm clear on this, you  
11 chose not to dispense Suboxone because doing so would expose  
12 you to considerably higher expense --

13 A. That's correct.

14 Q. -- than if you simply prescribed it to your  
15 patients?

16 A. Very high expense.

17 Q. Now you were asked about your adjusted gross income  
18 for the last three years. And you attested to the fact that  
19 it was approximately \$500,000 for the past three years,  
20 correct?

21 A. That's correct.

22 Q. Now, that comes to an average of about \$165,000 per  
23 year for adjusted gross income, correct?

24 A. That's correct.

25 Q. Is that what you anticipate you are going to have

1 earned or that's what you drew as an adjusted gross income  
2 for the year 2016?

3 A. No, I don't.

4 Q. Is there a reason why your average for the last  
5 three years was higher than what it is going to be -- or what  
6 it was for 2016?

7 A. The reason it was higher is because I drew salary  
8 from Darien.

9 Q. In what year?

10 A. Before that, I was making \$100,000 a year for last  
11 20 years. And the last three years I made more money because  
12 I believe I sold some property. And second thing was that I  
13 drew money from Darien Immediate Care Center.

14 And then, 2016, I -- since my son was managing it,  
15 he was drawing the salary first. In 2016, my adjusted gross  
16 income, I think, is 127.

17 Q. So you are saying that you drew a substantial amount  
18 of money in -- from the Darien Immediate Care Center?

19 A. That's correct.

20 Q. In what year do you recall that was?

21 Do you recall what year it was that you drew a  
22 substantial sum of money from the Darien Immediate Care  
23 Center?

24 A. I think it was 2014.

25 Q. You say you drew it. What set of circumstances, if

1 any, led to your taking that substantial amount of money from  
2 the revenues of the Darien medical center?

3 A. To pay the legal expenses on the Heather Lindsey  
4 case.

5 Q. Well, that's why you took the money?

6 A. Yes.

7 Q. My question was, how was it that you took the money  
8 instead of your wife taking the money?

9 A. Because she knew that I need the money, so she let  
10 me take it. She said, this year you take it. One or two  
11 year, you take it and pay all the expenses. Then she will  
12 take it later on.

13 Did I not answer your question?

14 Q. During the time that you owned and operated the  
15 Darien Immediate Medical Care Center, did your wife, Gurpreet  
16 Ahuja, play any role in the operation and management of that  
17 facility?

18 A. She was managing all the time, except the last  
19 couple of years.

20 Q. Yes. And in exchange for her managing it, did she  
21 draw any income?

22 A. Yes, she did draw income.

23 Q. Did there come a time when she stopped managing the  
24 Darien Immediate Medical Care Center?

25 A. About two years, three years, something like that.



1 Q. Why did she stop managing it?

2 A. Because she had medical issues. She had diabetes.  
3 She had high blood pressure. She had planter fasciitis. She  
4 had a bypass surgery. She had a lot of medical issues. She  
5 could not handle it.

6 Q. She stopped working altogether?

7 A. Pretty much, yes.

8 Q. Once she stopped managing the Darien Medical Care  
9 Center, who took her place, who assumed her responsibilities  
10 for managing it?

11 A. Initially I took it, but then it was too much for  
12 me. Then I asked Nick to take over.

13 Q. At this time, do you -- can you state what your  
14 adjusted gross income is -- or will be or is for 2016?

15 A. Like I said, it is 127, is my belief is my income.

16 MR. GAZIN: May I have just a moment, Your Honor?

17 THE COURT: Yes.

18 MR. GAZIN: That's all the questions I have.

19 MR. SOLOWAY: None.

20 THE COURT: I just have one question, Dr. Ahuja.

21 The employee that left your employment about whom  
22 you filed the police report, what was her position at your --

23 THE WITNESS: Secretary.

24 THE COURT: Secretary.

25 Did she have any medical certifications such as

1 nurse practitioner, RN, CNA, physician's assistant, anything  
2 like that?

3 THE WITNESS: No.

4 THE COURT: So she was not involved in the medical  
5 side of your practice?

6 THE WITNESS: No.

7 THE COURT: Thank you. And I'm sorry, one further  
8 question.

9 If she was not involved in the medical side of your  
10 practice, how would she have access to these tens and even  
11 hundreds of bottles of pills that have gone missing?

12 THE WITNESS: It is very -- let me put it right.  
13 It's a strange or it is coincidental that she started on the  
14 first of the month and I was sick for two, three days. So I  
15 really didn't go to the office for two days, three days.  
16 That's how she --

17 THE COURT: That doesn't answer my question. Aren't  
18 these medications -- maybe I'm wrong. I will ask a  
19 nonleading question.

20 Are the medications of the sort that you have  
21 addressed in your affidavit, Alprazolam, Hydrocodone  
22 Bitartrate Acetaminophen, Hydrocodone Bitritrate with  
23 Acetaminophen, Guaifenesin with Codeine Phosphate,  
24 Testosterone Cypionate, Zolpidem Tartrate, those medications,  
25 are they required when in the possession -- your possession

1 as a physician to be maintained under lock and key?

2 THE WITNESS: It was lock and a key.

3 THE COURT: How did she get access to them then? If  
4 you are inferring that she took them, how could she access  
5 them to steal them?

6 THE WITNESS: I have -- under the cabinet, I have a  
7 box, some container which contain all the keys for the  
8 different apartments, different things, my office, drawer,  
9 everything was there. Since I was not there, she looked  
10 around, she found my checkbook and she also found the key.

11 THE COURT: This is your surmise; is that correct?

12 THE WITNESS: Yes.

13 THE COURT: This is what you think happened?

14 THE WITNESS: That's what I think happened.

15 THE COURT: And your keys to the control substances  
16 cabinets were left in an unlocked desk or cabinet in your  
17 office?

18 THE WITNESS: That's correct.

19 THE COURT: Thank you. I have no further questions.  
20 If there's any follow-up, obviously, to my  
21 questions.

22 MR. SOLOWAY: None.

23 THE COURT: You may step down, Dr. Ahuja.

24 I believe there's one more witness that gave an  
25 affidavit. Is that whom you wish to call, sir?

1 MR. NELSON: Yes, the accountant.

2 THE COURT: Stefan Peleschuk.

3 MR. NELSON: Yes, Your Honor.

4 THE COURT: Sir, if you could come up to the witness  
5 stand. If you'd remain standing when you arrive so the clerk  
6 my administer an oath.

7 STEFAN PELESCHUK.

8 Having been called as a witness, was first duly sworn and  
9 testified on his/her oath as follows:

10 THE WITNESS: Yes.

11 THE CLERK: State your full name and the city and  
12 state where you work.

13 THE WITNESS: Stefan Peleschuk, P-e-l-e-s-c-h-u-k,  
14 Stamford, Connecticut.

15 THE COURT: You may be seated, sir, and good  
16 afternoon to you.

17 Whenever you are ready, Attorney Nelson.

18 CROSS-EXAMINATION

19 BY MR. NELSON:

20 Q. Sir, were you involved with the creation of the  
21 Ahuja Family Trust?

22 A. No, I was not.

23 Q. Were any of the assets for which you do accounting  
24 for Dr. Ahuja, were they transferred to the Ahuja Family  
25 Trust?

A. That was basically done by a law firm. I'm not sure

1 which one. But I was not really involved.

2 Q. As part of doing the taxes for Dr. Ahuja for the  
3 past -- quite a while I think your testimony is, over 20  
4 years; is that correct?

5 A. Yes.

6 Q. As part of doing his taxes, did you have to account  
7 for rental property income prior to 2009?

8 A. Yes.

9 Q. All right. And then at some point in 2009, you were  
10 no longer accounting for that, correct?

11 A. Correct.

12 Q. Right. Because that was transferred to the Ahuja  
13 Family Trust, correct?

14 Were you aware that in 2008, there was a criminal  
15 complaint filed against Dr. Ahuja by Heather Lindsey?

16 A. No.

17 Q. But the Ahuja Family Trust was created in 2009,  
18 correct?

19 A. Yes.

20 Q. What was the, if you can recall, sir, you are here  
21 as Dr. Ahuja's accountant, what was the income produced from  
22 the rental property in 2009 prior to the transfer?

23 A. Oh, gosh. I really don't remember. I don't  
24 recall.

25 Q. What's -- let's talk about Dr. Ahuja's income.

1           In your affidavit, you list the last three years.  
2           And I am not going to through it because the Court has it in  
3           front of her.

4           Prior to the three years that you list here, what  
5           was Dr. Ahuja's income from the Darien medical center, Darien  
6           Immediate Care Center?

7           A.    I believe prior to 2013, most of that income, the  
8           net income was derived, went to Grace or Gurpreet Ahuja.

9           Q.    How much income was that?

10          A.    I don't recall.  It could have been 80, 90,000.

11          Q.    Do you know then -- so Dr. Ahuja's testimony was  
12          that Mrs. Ahuja fell ill and she was no longer working at  
13          Darien, correct?

14          A.    Correct.

15          Q.    When did Nicholas Ahuja begin drawing a salary from  
16          Darien?

17          A.    I believe that was in 2014.  2015, for sure.

18          Q.    All right.  So I guess what I don't understand is,  
19          your testimony is prior to 2013, most of the income from  
20          Darien was going to Mrs. Ahuja, correct?

21          A.    Yes.

22          Q.    Then in 2013, the stream of income switches to Dr.  
23          Ahuja, correct?

24          A.    Correct.

25          Q.    But during that same period in time, Nicholas Ahuja

1 has replaced Mrs. Ahuja as the office manager, correct?

2 A. I believe so.

3 Q. So then how do we account for the fact -- why would  
4 that stream of income not continue for Dr. Ahuja?

5 A. I think that was just based on their own agreement,  
6 pretty much.

7 Q. So let me make sure I understand. So there was an  
8 agreement between Nicholas Ahuja and Dr. Ahuja to funnel the  
9 money to Dr. Ahuja regardless of the ownership structure; is  
10 that fair?

11 A. As a management decision, that's all I really can  
12 tell you.

13 Q. Right. Despite the fact that it was, at that point,  
14 50 percent ownership by Mrs. Ahuja and 50 percent ownership  
15 by Dr. Ahuja, they were able to circumvent that management  
16 structure and funnel the income directly to Dr. Ahuja?

17 A. That's correct.

18 THE COURT: Did you say at the end of that question,  
19 funnel the money directly to Dr. Ahuja?

20 MR. NELSON: Yes, Your Honor.

21 BY MR. NELSON:

22 Q. Now Dr. Ahuja is currently living at 821 High  
23 Ridge --

24 A. Yes.

25 Q. -- in Stamford. And he's not paying any rent on

1 that property; is that correct?

2 A. I do not recall, no.

3 Q. Does he own that property?

4 A. I believe he does.

5 Q. All right. Do you know what the value of that  
6 property is?

7 A. No, I do not.

8 Q. Beyond Dr. Ahuja's salary that he's listed in your  
9 affidavit, what does he have in terms of savings?

10 A. That I don't know.

11 Q. What does Dr. Ahuja have in terms of retirement  
12 plan?

13 A. I know he has an IRA account, but not sure what the  
14 value is.

15 Q. Does Dr. Ahuja have any investments in stocks,  
16 bonds, mutual funds, the like?

17 A. I know in previous years in preparing his returns  
18 that he did have some stock transactions.

19 Q. Do you know what his current situation is?

20 A. No, I do not. I do not.

21 Q. Dr. Ahuja, when he was on the stand just a few  
22 moments ago, referenced selling a property in the last three  
23 years.

24 Do you know what property that is?

25 A. No, I do not.



1 Q. So that wouldn't have been accounted for in your  
2 preparation of the taxes, that sale of the property?

3 A. That's correct.

4 Q. Do you know, and I apologize if I asked this, do you  
5 know if Dr. Ahuja maintains a checking account?

6 A. Yes.

7 Q. Do you know how much is in the checking account?

8 A. I do not.

9 Q. Do you know if Dr. Ahuja has any other investments  
10 aside from the Stamford location and the Darien location?

11 A. That's all I'm aware of.

12 Q. In 2009, when Dr. Ahuja transferred all his real  
13 estate to the Ahuja Family Trust, really to Nicholas Ahuja,  
14 did Dr. Ahuja receive anything in return from the Ahuja  
15 Family Trust?

16 A. Not that I'm aware of, no.

17 Q. Did you counsel Dr. Ahuja about the transfer of over  
18 \$2 million of assets to a trust, receiving nothing in return?

19 A. No, I did not.

20 Q. The \$800,000 that he transferred to Nicholas Ahuja  
21 in 2009, did Dr. Ahuja receive any interest in that Greenwich  
22 property that was purchased by Nicholas Ahuja?

23 A. No.

24 Q. Did you counsel him about that?

25 A. No, I did not.

1 Q. Is there any other real estate that Dr. Ahuja holds  
2 aside from 821 High Ridge?

3 A. Not that I'm aware of.

4 Q. You don't know what property that was he transferred  
5 in the last three years?

6 A. No.

7 Q. Is there any reason, as you sit here today, is there  
8 anything that you can tell the Court why you don't think an  
9 income stream would continue from the Darien medical center?

10 A. It seems like it has been pretty steady for the last  
11 few years, the income stream. It seems whenever I am there,  
12 it seems like there's people -- there's patients there.

13 Q. Are you a patient of Dr. Ahuja's?

14 A. No.

15 Q. But you get --

16 A. No, but I have to go there once a quarter to obtain  
17 information.

18 Q. Sorry, right. That makes more sense.

19 So it's been your experience looking at the Darien  
20 medical center historically, and at least as far as you know  
21 today, that the income stream still should continue from  
22 that?

23 A. It should.

24 Q. Was the income stream consistent when Mrs. Ahuja was  
25 collecting it as to what you reported here?

1           A.    I think so.  But from what I recall, it seemed like  
2 it gradually increased over the last several years.

3           Q.    Sure.  So in 2013, you list \$65,000 of net  
4 profits from Darien.  Then in 2014, 140,000 from Darien.  
5 2015, 97000 from Darien.

6           THE COURT:  I don't see that.  2015, I see he drew  
7 67,000 as his share of net profits.

8           MR. NELSON:  Did I say something different?

9           THE COURT:  If I misheard you, I thought you said  
10 97.

11          MR. NELSON:  My apology.  I meant to say 67.  That's  
12 what I was looking at.  I apologize.

13 BY MR. NELSON:

14          Q.    It's been your experience that that revenue stream,  
15 you anticipate, will continue?

16          A.    I think so.

17          THE COURT:  Can I ask a clarification?  When he  
18 says, that level, what do you understand when you said yes?  
19 What level?

20          THE WITNESS:  60,000 level, I would imagine.

21 BY MR. NELSON:

22          Q.    Why was it so high in 2014?

23          A.    I'm not sure, actually.

24          Q.    Was that the year that there was a decision made to  
25 divert all the profits to Dr. Ahuja?

1 A. It could have been. It could have been.

2 Q. Which would make sense because half of that would be  
3 about 70,000, wouldn't it?

4 A. Yes.

5 Q. And that would be consistent with what the draw was  
6 in 2013 and 2015, correct?

7 A. Yes.

8 Q. Does Dr. Ahuja -- is Dr. Ahuja the holder of any  
9 notes or liens on any other property that you are aware of?

10 A. Not that I'm aware of, no.

11 Q. Is Dr. Ahuja the holder of any -- let me rephrase  
12 that, Your Honor.

13 When you do Dr. Ahuja's business taxes, do you  
14 calculate the valuation of durable medical equipment and  
15 those sorts of things?

16 A. I'm sorry. Can you rephrase that?

17 Q. When you do Dr. Ahuja's business taxes -- do you do  
18 Dr. Ahuja's business taxes?

19 A. Yes. You mean from Stamford Immediate?

20 Q. Right.

21 A. Yes.

22 Q. As part of that, does he have durable medical care  
23 that he claims on his taxes?

24 A. Yes. Well, Stamford Immediate Medical Care is a  
25 single member LLC. So that business basically flows

1 through -- is part of his personal income tax return.

2 Q. Are there deductions for any durable medical  
3 equipment that he has there?

4 A. I believe so.

5 Q. What is the value of the durable medical equipment  
6 that he has at that location?

7 A. I really don't know at this point. No, I don't  
8 know.

9 Q. As you sit here right now, do you know -- in terms  
10 of the earnings that you mentioned in your affidavit, as you  
11 sit here right now, do you know what cash on hand Dr. Ahuja  
12 has?

13 A. No, I do not.

14 MR. NELSON: Nothing further, Your Honor.

15 THE COURT: Redirect.

16 REDIRECT EXAMINATION

17 BY MR. GAZIN:

18 Q. Good afternoon. I believe you testified just now  
19 that you believe that 821 High Ridge Road in Stamford, the  
20 residence at which Dr. Ahuja currently lives, is owned by  
21 him.

22 Did you say that?

23 A. Yes.

24 Q. What is your basis for your belief that he owns that  
25 property?

1 A. Well, he lives there.

2 Q. Okay. So you are assuming that because he lives  
3 there, he owns it?

4 A. Yes.

5 Q. But you have never seen any deed or title to confirm  
6 that for you?

7 A. No.

8 Q. Would it surprise you to learn that the property is  
9 owned entirely and exclusively by the Estate of Gurpreet  
10 Ahuja?

11 A. That's a surprise, yes.

12 Q. So did anyone ever tell you that Dr. Ahuja owns it?

13 A. Not that I recall.

14 Q. Okay. Was there anything that you did or learned or  
15 investigated in the course of your preparation of taxes for  
16 Dr. Ahuja that would have led you to conclude that he was the  
17 title owner of 821 High Ridge Road?

18 A. No.

19 MR. GAZIN: Thank you. That's all the questions I  
20 have.

21 THE COURT: I just have sort of a logistical  
22 question, sir.

23 When I look at the tax returns, for example, Exhibit  
24 CC -- or we can look at DD, which is a 2014, one of the ones  
25 you spoke about.

1           Line 17 lists rental income, royalties,  
2 partnerships, S corporations, trusts, et cetera, that's where  
3 he would -- you would have had him report that -- what you  
4 think will be about 65,000 going forward.

5           THE WITNESS: Yes.

6           THE COURT: That's my question.

7           The tax return that I have a copy of doesn't seem to  
8 have Schedule E following, for example, Schedule C or D. And  
9 do you have any -- there it is. I found it. Sorry. Thank  
10 you very much. I was looking for help to find it, and I see  
11 it now.

12           It doesn't have the same heading as C and D where  
13 you can see it easily. Thank you. That was all I had.

14           So I don't think there will be follow-up, but if  
15 there is, you are welcome to it.

16           MR. NELSON: No.

17           MR. GAZIN: No.

18           THE COURT: You may step down, sir. Thank you very  
19 much.

20           Any further evidence that, I guess, either party has  
21 to offer? For the Government?

22           MR. SOLOWAY: None, Your Honor.

23           MR. GAZIN: Your Honor, I need to call a witness to  
24 rebut. It should take about 60 seconds.

25           THE COURT: Who is that witness?

1 MR. GAZIN: That witness will be Dr. Ahuja to attest  
2 to who actually owns and owned 821 High Ridge Road.

3 THE COURT: Any objection to that?

4 MR. NELSON: No, Your Honor.

5 THE COURT: You can recall him.

6 MR. GAZIN: May I proceed?

7 THE COURT: You are still under oath, Doctor. You  
8 understand that.

9 AJAY AHUJA.

10 is recalled to the witness stand.

11 REDIRECT EXAMINATION

12 BY MR. GAZIN:

13 Q. Dr. Ahuja, where do you live?

14 A. 821 High Ridge Road.

15 Q. Do you recall when you first commenced living at 821  
16 High Ridge Road?

17 A. Built in 1996.

18 Q. So you built it?

19 A. Yes.

20 Q. At the time that you built it, were you living  
21 alone?

22 A. No.

23 Q. Who lived with you at that time?

24 A. Me, Gurpreet, Nicholas, and my son, Kenneth.

25 Q. Did there come a time -- at the time that the house  
was built, who owned that property?



1 A. I think we both owned the property.

2 Q. You and Gurpreet?

3 A. If I remember correctly.

4 Q. Did there come a time when there was a change in who  
5 owned 821 High Ridge road?

6 A. In 1999, I believe when I got a divorce, house was  
7 given to her. And I was supposed to pay the mortgage.

8 Q. Now even though you divorced in 1999, did you  
9 continue to reside with Gurpreet Ahuja?

10 A. All the time, yes.

11 Q. And from the time that the property was conveyed to  
12 Gurpreet Ahuja, did she continue to own that property alone?

13 A. I believe so.

14 Q. And at this time, do you know who owns that  
15 property?

16 A. I believe it will go to Nicholas Ahuja.

17 Q. Did your wife will any share of that property to  
18 you?

19 A. No, she did not.

20 MR. GAZIN: That's all the questions I had, Your  
21 Honor.

22 THE WITNESS: I just want to say I pay the mortgage  
23 of this house.

24 MR. GAZIN: Pardon me. I'm sorry.

25 THE WITNESS: I believe the accountant thought I

1 owned the place because I pay the mortgage. So he does --  
2 every year he pays my mortgage expense, he thinks that I own  
3 it.

4 MR. GAZIN: Thank you.

5 THE COURT: Have you continued to pay the mortgage  
6 after your wife's -- former wife's death?

7 THE WITNESS: Yes.

8 MR. SOLOWAY: No questions.

9 THE COURT: You may step down, Doctor.  
10 Anything further?

11 MR. SOLOWAY: No.

12 THE COURT: I would just inquire. I have the list  
13 of exhibits, and I have obviously the books of exhibits.

14 Is it everyone's intention that all of those  
15 exhibits are admitted?

16 MR. NELSON: Yes, Your Honor.

17 MR. GAZIN: Yes, Your Honor.

18 THE COURT: There's no objection to any of them?

19 MR. NELSON: No.

20 MR. GAZIN: No, Your Honor.

21 THE COURT: All right then. So I think I had said I  
22 would hear closing argument. Obviously, it is lunchtime.  
23 We'll take a luncheon recess.

24 Do you want a little extra time to get organized?  
25 We could come back at 2:30. That will give you time and

1 maybe a half an hour to collect your thoughts.

2 So the Court will be back at 2:30. We'll do closing  
3 argument at that time.

4 (Whereupon, a luncheon recess was taken from 01:08  
5 p.m. to 02:31 p.m.)

6 THE COURT: Good afternoon. We're back in the  
7 matter of the United States versus Ajay S. Ahuja,  
8 M.D., 314-CV-1558. Counsel are present. Dr. Ahuja is  
9 present.

10 (Discussion off the record.)

11 THE COURT: All right. We're ready for closing  
12 argument. I would think the Government would go first. I  
13 understand you have reserved, so about 15 minutes, Attorney  
14 Soloway.

15 MR. SOLOWAY: Yes, your Honor.

16 THE COURT: Thank you.

17 MR. SOLOWAY: Your Honor, Attorney Gazin, Dr. Ahuja,  
18 Attorney Nelson.

19 I want to briefly sum up for you the Government's  
20 case against Dr. Ahuja. This case can best be summed up in  
21 four succinct words, ignorantia juris non excusat, ignorance  
22 of the law is no excuse. Dr. Ahuja's action with regard to  
23 the matter in which he kept control of substance records was  
24 egregious. And it was more than that, it was reprehensible  
25 by a man who has spoken English since he was a child and a

1 man who has practiced medicine in the United States for about  
2 30 years.

3 Dr. Ahuja was a knowledgeable physician who was  
4 properly charged with knowing what the Controlled Substance  
5 Act requires from those who obtain a controlled substance  
6 registration to permit them to purchase controlled substance  
7 and to issue prescriptions for the same and who have to visit  
8 the DEA website when they renewed their registration. It is  
9 important to realize that this is not a criminal case and the  
10 burden imposed upon the United States is a preponderance of  
11 the evidence and not a greater standard that might be  
12 applicable to many other cases that Your Honor has on her  
13 docket.

14 Dr. Ahuja has demonstrated, at best, benign neglect  
15 for a closed system of distribution designed to help protect  
16 the citizenry from the dangers of controlled substances that  
17 can have a beneficial effect on those suffering from serious  
18 medical issues when utilized correctly and have a devastating  
19 impact on the loved ones of all of us when those substances  
20 are used for illicit or inappropriate reasons.

21 Not once during the relevant time period in the  
22 Complaint did Dr. Ahuja query the Connecticut PMP to see if  
23 his patients were getting controlled substances from other  
24 physicians to preclude doctor shopping. Not once did  
25 Dr. Ahuja input data to the PMP to enable his fellow

1 physicians to be aware of the controlled substances that he  
2 was dispensing.

3           Now, to be sure, Your Honor, the failure to check  
4 and upload to the Connecticut PMP is not a violation of  
5 Federal law. But it's another indicia of impropriety with  
6 the way that Dr. Ahuja has conducted his medical practice.  
7 We don't know with certainty what happened to all the  
8 controlled substances that Dr. Ahuja ordered during the  
9 two-year period in question. Did he consume those pills? We  
10 don't know. But as the Court's questioning makes clear, he  
11 didn't take proper safeguards with regard to keeping those  
12 medications away from those who didn't have a legitimate  
13 medical purpose.

14           What we do know is that Dr. Ahuja self-medicated  
15 himself with controlled substances. And we know that  
16 Dr. Ahuja thought he was medically competent to treat himself  
17 and his family members in a matter inconsistent with the  
18 proper practices of medicine. We know conclusively from the  
19 testimony and affidavit of Dr. Perrin that Dr. Ahuja's  
20 practices as it relates to both himself and his family was  
21 outside the course of normal medical practice, subjecting  
22 Dr. Ahuja to civil penalties of \$25,000 per occurrence.

23           In conducting the investigation of Dr. Ahuja, both  
24 by DEA and State Drug Control, they were attempting to bring  
25 disorder to a chaotic and dangerous medical practice. By

1 being involved in the investigation of Dr. Ahuja, DEA and  
2 State Drug Control could not participate in the investigation  
3 of other cases, and for this reason the cost of the  
4 investigation really did constitute harm to the public and  
5 should be considered by this Honorable Court and justify the  
6 Court going beyond the four corners of Advanced  
7 Pharmaceuticals and its progeny.

8           The United States sees the imposition of substantial  
9 penalties having a deterrent impact to discourage other  
10 physicians and pharmacies from contributing to the opioid  
11 crisis that horrifically impacts every man, woman and child  
12 in Connecticut and every man, woman and child in the United  
13 States. Agent Marriott's affidavit amply demonstrates how  
14 significantly the opioid crisis has impacted all of the  
15 citizens in our state.

16           Dr. Ahuja is not a pauper. He's a man that has an  
17 adjusted gross income over the last three years of  
18 approximately \$200,000. He has sold real estate within the  
19 last three years, not accounted for by the properties within  
20 the Ahuja Family Trust. You will recall the testimony of  
21 Nicholas Ahuja, who values the properties questioned at  
22 \$750,000, but under cross-examination from Attorney Nelson,  
23 Nicholas Ahuja had to admit that the total value of the  
24 properties in the question totaled more than \$2 million.

25           Dr. Ahuja's relationship with the Ahuja Family Trust

1 does not serve as a basis for the doctor to claim poverty and  
2 his ability to pay under Advanced Pharmaceuticals has not  
3 been compromised, nor should the shelter he has created work  
4 as a shield to limit the imposition of very substantial civil  
5 penalties by this Honorable Court.

6 To the extent that there's any point about ability  
7 to pay, Dr. Ahuja is in a unique position to know about his  
8 true net worth and, as such, must bear the burden of showing  
9 his claimed lack of financial wherewithal. The Government  
10 suggests that the burden imposed on Dr. Ahuja has not been  
11 met.

12 I would suggest to the Court, Your Honor, that the  
13 U.S. Attorney's Financial Litigation Unit will be  
14 appropriately vigilant and aggressive and will do a thorough  
15 job in recovering from Dr. Ahuja the penalty to be awarded by  
16 this Honorable Court. The United States asks this Honorable  
17 Court impose a civil penalty of at least \$496,500, the amount  
18 sought by the United States, when this case was subject to a  
19 motion for default.

20 In the two plus years that have passed since the  
21 motion for default was filed on February 9, 2015, the  
22 egregiousness of the defendant's actions have been shown  
23 through the course of discovery to have been even more  
24 repugnant than originally sought.

25 Your Honor, if I may have a moment to confer with

1 co-counsel.

2 THE COURT: Yes.

3 MR. SOLOWAY: Thank you, Your Honor.

4 THE COURT: I have a few questions before you -- I  
5 don't know if you were finished.

6 MR. SOLOWAY: I was, Your Honor.

7 THE COURT: Just a couple of questions in the order  
8 in which they arose. You made a comment that all doctors, I  
9 guess, but Dr. Ahuja in particular, has to visit a DEA  
10 website when he renews his license.

11 MR. SOLOWAY: That's correct.

12 THE COURT: Is that in the evidence or is it a  
13 regulation?

14 MR. SOLOWAY: I thought it had been. It is a  
15 regulation.

16 THE COURT: If we don't find it in your papers, I  
17 guess, we may be inquiring for a citation unless you have it  
18 there.

19 MR. SOLOWAY: I know it is a citation within the CFR  
20 that the registration has to be renewed every two years. I  
21 know that at least for his last two registrations, Dr. Ahuja  
22 did that online. And when you visit the website, in order to  
23 renew your registration, there are a number of practitioner's  
24 guides to compliance with the Controlled Substances Act.

25 THE COURT: All right. On your argument about the



1 costs of the investigation, I would inquire whether you would  
2 argue in the nature of one of the cases I cited you to, do  
3 you claim obstruction by Dr. Ahuja in connection with your  
4 investigation?

5 MR. SOLOWAY: I'm sorry, Your Honor, I didn't --

6 THE COURT: Do you claim obstruction?

7 MR. SOLOWAY: Yes.

8 THE COURT: Would you tell me what that -- what the  
9 basis in the record would be for that claim?

10 MR. SOLOWAY: The obstruction was the acts of  
11 failure to cooperate when Investigator Johnson and Agent Lele  
12 initially visited Dr. Ahuja's office in the early 2014 time  
13 frame. He intentionally misled Investigator Johnson. He  
14 intentionally misled Agent Lele. And albeit perhaps not  
15 obstruction in the criminal sense, he certainly -- his  
16 answers to inquiries to both investigators was functionally  
17 the equivalent of putting the United States and, to a  
18 secondary benefit, the State of Connecticut off on a path  
19 that was not to be found out to be borne out by the truth.

20 THE COURT: Do you have any sense of how much in  
21 time was expended because of what you argue was obstruction?

22 MR. SOLOWAY: Yes, Your Honor. You know, the amount  
23 of time that the agents put into the case, certainly by the  
24 time they went into the office of Dr. Ahuja after receiving  
25 the complaint from Probation Officer Clemenson, it was

1 relatively early on in the investigation. So the Government  
2 would submit that everything that occurred after those  
3 initial visits was functionally obstructing the investigation  
4 of the true acts.

5 I don't have a specific figure. We didn't break  
6 down the time spent on the investigation at various points in  
7 the time other than the cumulative efforts put together by  
8 Investigator Johnson and the others that assisted in the  
9 investigation from DEA and with Agent Lele. We have got the  
10 testimony both from Investigator Levin as to the gross amount  
11 of hours that Investigator Johnson and the others put into  
12 the case, and the same thing for Agent Marriott as it relates  
13 to the efforts put in by Investigator -- excuse me, Agent  
14 Lele.

15 THE COURT: I think towards the end of your argument  
16 you referenced the trust, and you said something to the  
17 effect that his relationship with the trust should not be a  
18 shield and he can't claim poverty because of the trust. And  
19 I guess I would like you to explain that a little bit more.  
20 I mean, is it your view that you, or probably more likely  
21 Attorney Sciarrino, intends to try to break through that  
22 trust or -- because my reading of the documents is he's not a  
23 beneficial -- not a beneficiary of it. So even if it weren't  
24 a spendthrift trust, still he has no right to it.

25 MR. SOLOWAY: Your Honor, as I understand it, given

1 the fact that the trust was set up in 2009, which is  
2 significantly before this investigation began, that we would  
3 be unable or not properly charged with setting aside the  
4 trust. I believe that the statute of limitation is three  
5 years, but --

6 THE COURT: Whatever it is, I think we probably are  
7 past it.

8 MR. SOLOWAY: That's correct. I would suggest that,  
9 but I would suggest that the relationship with the trust is  
10 certainly more than suspect.

11 THE COURT: I mean where does -- it's suspect, but  
12 what -- I mean, I think one of the criteria of one of the  
13 pharmaceutical factors is ability to pay, and so I don't know  
14 whether you're suggesting I should be looking at the trust as  
15 a source of an ability to pay by the doctor. Because you  
16 will have to explain how I can do that.

17 MR. SOLOWAY: Well, Your Honor, perhaps it is not  
18 just the trust. You know, we've got --

19 THE COURT: Oh, no, I don't deny there might be  
20 other assets. There's no evidence offered on the absence of  
21 certain other kinds of assets. But as to the trust, I guess  
22 would ask you flat out can I consider anything in that trust  
23 as contributing to the doctor's ability to pay.

24 MR. SOLOWAY: I would suggest, Your Honor, that this  
25 is not an arm's-length series of negotiations or an arm --

1 perhaps an arm-length relationship, and that the -- that  
2 Dr. Ahuja pays certain finds that may -- made to go benefit  
3 certain trust properties. More than that, we heard testimony  
4 from the accountant that Dr. Ahuja has sold two or three  
5 properties that were outside of the trust --

6 THE COURT: Right.

7 MR. SOLOWAY: -- and presumably received those  
8 assets. We also have information that the adjusted gross  
9 income for Dr. Ahuja is approximately \$500,000 and has no  
10 suggestion realistically of depreciating further. We heard  
11 the accountant testify about the continued positive cash flow  
12 from the Darien facility.

13 And the Government would suggest that there are  
14 sufficient assets from which to pay the civil penalty that  
15 the Court is asking -- that the Government is asking the  
16 Court to impose. So irrespective --

17 THE COURT: But I guess I still don't know that I  
18 have an answer. Without in any way contesting your statement  
19 that this setting up of the trust was suspect, wasn't  
20 arm's-length, whatever, the fact of the matter is you can't  
21 get behind it at this late date.

22 MR. SOLOWAY: That's probably true, but I'm --

23 THE COURT: I'm not asking you to make a statement  
24 that estops Attorney Sciarrino from trying to go after it. I  
25 mean, I guess -- I did hear today, which I hadn't been aware

1 of, that this 2009 activity occurred shortly after a possible  
2 criminal investigation was open?

3 MR. SOLOWAY: That's correct, Your Honor.

4 THE COURT: I don't know what Attorney Sciarrino  
5 could do and I don't in any way think that your answers --  
6 and I'm not asking you in any way to bind the Government as  
7 to what it can or can't do vis-a-vis the trust, but absent  
8 some demonstration that you can access the assets in the  
9 trust now, I don't know how I can count them in connection  
10 with -- I mean, other than they tend to -- other than how it  
11 relates to expenses the doctor might have, income he has, who  
12 is paying for what within this family, those kinds of things,  
13 but as an asset.

14 I mean, in other words, if everything in the trust  
15 right now were in Dr. Ahuja's name, we would be having a  
16 different discussion, right?

17 MR. SOLOWAY: That's correct.

18 THE COURT: I think that's enough for me. So that  
19 was my last question.

20 MR. SOLOWAY: If I may have a moment to consult.

21 THE COURT: Yes, sir.

22 MR. SOLOWAY: Thank you, Your Honor.

23 THE COURT: I'm sorry. I do have one more question.  
24 I think you said something -- where is that page? You said  
25 you asked for \$496,000 at the motion for default stage.

1 MR. SOLOWAY: Yes, Your Honor.

2 THE COURT: But that since discovery and everything,  
3 you have evidence showing how egregious the violation was.

4 So what is are you asking me? If I read your papers right,  
5 it looked like you are asking me for the statutory maximum.

6 MR. SOLOWAY: No, the statutory maximum in this case  
7 is approximately 11 and a half million dollars.

8 THE COURT: Right. That's why I'm asking you is  
9 that what you are asking for.

10 MR. SOLOWAY: I'm asking for the Court to pose a  
11 minimum of \$496,500. We wouldn't be upset with more.

12 THE COURT: All right. Thank you very much,  
13 Attorney Soloway.

14 Attorney Gazin.

15 MR. GAZIN: Well, I'm in a difficult position of  
16 defending the indefensible. The other side, plaintiffs, have  
17 right on their side, and it sounds good. I cannot come to  
18 this court without my violin and sing a very sympathetic  
19 song.

20 We acknowledge the truth of many, if not most, of  
21 the things the plaintiff has asserted. My client is culpable  
22 of doing something very wrong. It is not quite as wrong,  
23 exactly as wrong as the Government would say, but it is wrong  
24 enough.

25 His -- the underlying cause of his wrong was a

1 failure to accept and execute his responsibility to maintain  
2 and to obtain the knowledge of the regulations he was obliged  
3 to follow. That is a serious wrong. I cannot minimize it,  
4 and I will not. But there are four factors that the Court is  
5 entitled to consider under the case law, Advanced  
6 Pharmaceuticals, which the Court is well aware of.

7           There is the issue of liability is number one. Of  
8 course my client is liable. It is a strict liability  
9 violation. But there are different kinds of, I don't know,  
10 motivation or reasons for that wrong occurring. A review of  
11 the wrongs that were committed, I believe, suggest that this  
12 was not a knowing, willing and intentional grab for profits  
13 or the attempt to commit a criminal scheme. It was a failure  
14 to assume the responsibilities that he should and was obliged  
15 to maintain. Had he, then, knowingly violating these rules,  
16 he certainly wouldn't have left a scarlet trail of every  
17 wrongdoing he committed. From the moment the DEA came in to  
18 investigate, he was convicted.

19           I'm not suggesting that ignorance of the rules is a  
20 defense. No lawyer can or should. But we're considering  
21 liability, and I believe the Court might want to consider  
22 that there are degrees of intentionality. In Advanced  
23 Pharmaceuticals, the defendant clearly was engaged  
24 intentionally and knowingly with many warnings given to it by  
25 the Government that it was basically making itself a partner

1 in a scheme to manufacture methamphetamine and to distribute  
2 it illegally to the public.

3 My client was blundering and stumbling around,  
4 walking into a trap of his own making. And although that's  
5 not a good thing, it is arguably somewhat less viable and  
6 evil than someone who takes these drugs and goes out and  
7 sells them to children outside of playgrounds.

8 So, you see, the violations he committed were  
9 really -- there was really one violation in this sense, and  
10 that was his failure to know what he should have known. Once  
11 he committed that one great violation, every other violation  
12 emanated from that. It was the product of that.

13 The second factor, of course, is harm to the public.  
14 And the Government has had to make an argument based on the  
15 general harm that accrues to the public because if the rules  
16 aren't followed, society is hurt, and that Dr. Ahuja was  
17 contributing to the overall problem in our society of these  
18 controlled substances getting out into a public stream. And  
19 that's true, that was a harm. But we don't really know with  
20 certainty what happened to the missing pills. And that's a  
21 harm. But the Court can consider that it isn't certain nor  
22 was any evidence provided to prove that this evidence -- that  
23 these drugs went out and found their way to the bloodstreams  
24 of the public. We may -- for all we know, they wound up in a  
25 garbage dumpster and are filling up a landfill or were burned



1 in some kind of waste disposal.

2 Now they have made the argument that the public has  
3 been harmed because these resources of the Government in  
4 their investigation could have been used on somebody else.  
5 As the Court has already mentioned, and it's been discussed,  
6 there doesn't appear to be any case law to justify this  
7 particular claim, that the costs of salaried employees of the  
8 U.S. Government, in investigating this particular kind of  
9 case, can be made a basis for restitution. It goes against  
10 the American rule. And that is that the plaintiff -- unless  
11 the a law or some kind of law, whether it is a statute or  
12 regulation or case law, specifically provides that the  
13 plaintiff is entitled to compensation for its costs, the  
14 plaintiff doesn't collect those costs.

15 The fundamental policy rule behind that is that if  
16 defendants face the possibility of having to pay for the cost  
17 of their own prosecution, it would have the effect of  
18 chilling them in asserting their right to defend themselves  
19 for fear that the cost the Government expends on prosecuting  
20 them in one form or another, is going to be added. And that  
21 amount of expenditure could be unlimited since it would be at  
22 the Government's discretion, arguably, as long it didn't go  
23 completely out of bounds.

24 There's been no evidence that Dr. Ahuja derived any  
25 profit through the loss of these particular drugs. According

1 to his own testimony, he certainly didn't sell them. He  
2 didn't divert them. And there would be no reason for him to  
3 do so because the cost -- whatever profit he might have  
4 derived, if one imagines him selling them on the street,  
5 could not possibly equal the risk that he would be taking in  
6 doing so and damaging his own stream of income through his  
7 legitimate medical practice.

8 We have tried to adduce evidence in terms of his  
9 capacity to pay. Based on his tax returns, it appears that  
10 his real net income, his adjustable income, is somewhere in  
11 the range of \$150,000, \$160,000 a year based on what he  
12 derives from his own practice at the Stamford Immediate  
13 Medical Care Center and his share of the profits from the  
14 Darien Immediate Medical Care Center. There was a short-term  
15 deviation or bump, you might say, in the last couple of years  
16 when his partner, as well as his wife, ceased to work at  
17 the center, and so ceased to draw a salary or profits from  
18 the center.

19 However, that situation has now changed, and  
20 Nicholas Ahuja is acting in place of his mother, running that  
21 business and taking a substantial amount of the gross  
22 revenues as salary or earnings for his own work.

23 Now the Court asked me earlier, what do we propose?  
24 And that's been difficult. The cases that exist on this  
25 particular question vary sharply in the approach that's taken

1 in formulating what's an appropriate penalty. In Advanced  
2 Pharmaceutical, the Court asked the defendant to disgorge the  
3 profits they made on the sale of their controlled substances  
4 in the amount of \$2 million, gross profits, even though there  
5 were --

6 THE COURT: What case was that?

7 MR. GAZIN: Advanced Pharmaceuticals. The leading  
8 case.

9 THE COURT: Okay.

10 MR. GAZIN: In the Second Circuit.

11 Although there was something like 34 million  
12 tablets, the Court did not take a per tablet formula in  
13 estimating what the penalty should be. Had they done so, at  
14 \$2 million, it would come to about six cents per tablet. In  
15 that case, the Court decided that the defendant should  
16 disgorge the profits. That what they did.

17 The Court was careful in that case to look at the  
18 income stream and the dynamics of the business and found that  
19 the \$2 million penalty was something that the defendants  
20 could pay and would not destroy the business in spite of the  
21 egregiousness and the scope and degree of the wrongdoing.

22 So what we would suggest, or what I might suggest, I  
23 do not demand, but I suggest is that the Government's formula  
24 for the value of the missing controlled substances, which is  
25 \$28,462.16, be the penalty that would be assessed in this

1 case.

2           Given what Dr. Ahuja's income is, which -- well, the  
3 Court could consider that there's no certainty of what Dr.  
4 Ahuja's income is going to be. He's 63 years of age. And as  
5 is attested to in his affidavit, he has health issues which  
6 are not usual for a man of his age. So the length of time  
7 for which he will be able to continue working as a doctor is  
8 somewhat uncertain. And so his income is speculative, at  
9 best, for the remaining or future years. The Court could  
10 assign that kind of penalty, that is the value of the missing  
11 controlled substances after street value. Presumably, Dr.  
12 Ahuja would, at this time, be able to pay that amount.

13           The Court can consider that that penalty will not be  
14 a slap on the wrist given his income. A penalty in that  
15 amount will, I believe, have a deterrent effect. This  
16 Government does need and want to get a penalty of some  
17 substance because it is important that they can say and show  
18 to other errant doctors that one cannot commit these  
19 violations with impunity. But given all the circumstances,  
20 given that his failure to comply with the rules appears to be  
21 through a failure on his part to know, that might temper the  
22 penalty that the Court wishes to impose on him.

23           Thank you, Your Honor.

24           THE COURT: I have a few questions, if you give me a  
25 minute to go back through my notes.

1 MR. GAZIN: Certainly.

2 THE COURT: I guess I would like you to respond to  
3 the following statement: Can you think of a more egregious  
4 violation? And let's accept for the moment it was not  
5 intentioned, but can you think of any more level of gross  
6 negligence that you could describe to me other than what's  
7 described in this case by Dr. Ahuja?

8 I mean, it seems like at every turn, he kept no  
9 records, he made no notes, his pills are missing, they are  
10 not kept under lock and key. You know, I can think of a  
11 worse violation. I can think of the pain mills in Florida  
12 where people go in -- get paid to go in 10 bucks to get  
13 another prescription for Oxycodone and turn it over on their  
14 way out the door and the doctor knows exactly what's  
15 happening.

16 I don't deny there are worse violations, but those  
17 people generally end up getting indicted. So I think on a  
18 civil penalty level, I'm struggling with understanding what  
19 more -- in what further way Dr. Ahuja could have been even  
20 more grossly negligent than he was? Assuming I accept his  
21 testimony that he didn't know -- and that's a whole different  
22 question for me -- but this is assuming I accept his  
23 testimony that this was a negligent act on his part, or acts,  
24 how could it be any more grossly negligent?

25 MR. GAZIN: Okay. I will answer.

1           As the evidence shows, Dr. Ahuja did keep a  
2     dispensing log. He did not keep it up to the standards  
3     required by the regulations.

4           THE COURT: Why did he keep that if he didn't know  
5     he had an obligation to keep a record?

6           MR. GAZIN: Well, Your Honor, he kept it because  
7     when he first began dispensing, when he received his first  
8     supplies, when he got his first set of supplies, he also  
9     received a dispensing log from the company. They instructed  
10    him on how to keep it. And based on that, he did it.  
11    Because that was his source. That's what he relied upon.

12           It wasn't adequate, but that's -- you've asked me  
13    how or why he even knew there was such a thing as a  
14    dispensing log. That's how he knew. Which is not in  
15    conflict with what I'm -- Your Honor, he failed to avail  
16    himself to go out and find the rules.

17           He thought, mistakenly and, I would say,  
18    inexcusably, he had a, shall we say, almost a delusion that  
19    he was somehow complying. It is not a defense. It was  
20    ghastly mistake and not an excusable one.

21           THE COURT: What's your answer to the Government's  
22    argument that if not all their costs of investigation, some  
23    expense was incurred by them because of, I don't know, things  
24    like -- and if you want tell me I should discredit it, I will  
25    be happy to hear that argument. But I didn't hear any reason

1 to discredit Investigator Johnson when she says in her direct  
2 examination that Dr. Ahuja -- I think it is hers, maybe I  
3 have the wrong one, yeah -- that he denied that he ever  
4 dispensed controlled substances. And then he contradicted  
5 himself several times about how he discharged a patient and  
6 yet he wrote a prescription for that patient after the  
7 supposed discharge, things of that sort.

8 I mean, are those things -- at least the Government  
9 argues, caused them to investigate or go in different  
10 directions than they otherwise would have. And therefore,  
11 some of the expense of the investigation would fall under  
12 those cases I cited both of you to in which costs were  
13 attributable when they were additional to what would be  
14 otherwise a normal cost of investigation in this type of  
15 case.

16 MR. GAZIN: Let me clarify, Your Honor. If by  
17 additional costs we're talking about such cost as depositions  
18 and the other kinds of costs that are considered extra, I'm  
19 not arguing against that. The case law is clear.

20 THE COURT: Well, if they are used in a summary  
21 judgment, there's a base, and it was used here at trial.  
22 Those costs are part of a bill of costs that I assume will be  
23 sought and be attributed.

24 I'm talking about the Government's attempt to  
25 ascribe what is, I think, about \$150,000, if I'm remembering

1 correctly, in investigation costs for the whole  
2 investigation. And at this point, I'm not persuaded that's  
3 recoverable by the Government. But there's no question that  
4 there are cases which recognize the recoverability of costs  
5 that were incurred because of, I will call it, bad or  
6 misleading conduct of the person who is the target of the  
7 investigation. And I don't think it has to be obstruction.  
8 It just has to be -- whether it is a false answer or it's a  
9 faint, I did this, but you didn't do it, so somebody ends up  
10 looking through records to find where they did something and  
11 there's nothing there to be found because it wasn't done,  
12 things of that sort.

13 I think the cases I read are sound, that those are  
14 sort of more of the -- kind of cover up the continuation of  
15 the violation, et cetera, that those are not the usual costs  
16 of investigation but kind of extraordinary.

17 MR. GAZIN: If I may?

18 THE COURT: Yeah.

19 MR. GAZIN: The Government's made that argument, but  
20 I believe a careful review of the specific facts in the  
21 record will show that that argument can't really be  
22 sustained.

23 Investigator Johnson came to the office for the  
24 first time, I believe, in January and then again in February.  
25 Dr. Ahuja, his answers, let's say, were somewhat unclear and



1 seemingly contradictory. Dr. Ahuja, when he was first -- as  
2 we asserted in his affidavit, was gripped by a sense of panic  
3 and fear and anxiety when the investigators swooped down  
4 without any warning. And as he, himself, attested, after  
5 what he had been through in the prior years because of other  
6 legal matters, he was frightened. He didn't even call up his  
7 lawyer when they first came down and sought legal counsel.

8           And his answers may have been -- the Government  
9 insists that these were attempts to deceive or misrepresent,  
10 but it appears that very quickly the true state of affairs  
11 were clarified.

12           THE COURT: How do I know that?

13           MR. GAZIN: Well, by the second -- the second visit  
14 when the Government came in with its AIW, its Administrative  
15 Warrant, they began and looked through all of his records and  
16 all of his documents. It's not as if their investigation was  
17 delayed by months and months and years and tremendous  
18 attempts to investigate prior to their second visit and their  
19 inspection.

20           They came in rather swiftly, initially, to do their  
21 inventory, to take the dispensing log. And this was what  
22 they were going to do and would have done in any case. It  
23 doesn't appear to me that they have demonstrated that any  
24 representations or misrepresentations or contradictions that  
25 Dr. Ahuja made during their first visit led them down a false

1 path, which they pursued for weeks or months, going down dead  
2 ends.

3           What seems to be the case is that his contradictory  
4 answers led them to believe, not unreasonably, that something  
5 was wrong. That the game was afoot. That something wasn't  
6 being done according to Hoyle. So they commenced a  
7 full-blown investigation. They commenced it, I believe, in  
8 February of 2014. And their investigation revealed what it  
9 ultimately revealed. And if that is a separate wrong that  
10 justifies additional costs on a defendant, then any time a  
11 defendant is charged with these wrongdoings and the initial  
12 evidence suggests that is a full-blown investigation should  
13 be done, then in every case that defendant will, I guess, be  
14 asked to pay all or part of the total costs of the  
15 investigation.

16           What the Government is seeming to say and what the  
17 Court's asked me is, did Dr. Ahuja mislead, misguide, seem  
18 too participate in a continuing campaign or conspiracy of  
19 deception? And the hard facts of the record and the  
20 witnesses don't know that. That once he got past his  
21 immediate panic and fear and dread and mortification, he  
22 said, okay. You have your warrant. Go inspect. And they  
23 did. And they did their inventory and they took his  
24 dispensing log, and there it all was. It seems to have been  
25 all there pretty early on.

1           The Government then was set to the tedious chore of  
2 doing their accountings, which is represented in their  
3 exhibits. That was clearly a difficult and time-consuming  
4 chore, but it would have been necessary, in any event, for  
5 them to do their -- to make their case, to count up the  
6 number of missing bottles. And what did we come to, about 60  
7 missing bottles.

8           Now I'm not suggesting that that's something for  
9 which he should get a medal, but it wasn't 34 million  
10 tablets. It was approximately 6,000 tablets, something like  
11 60 or 70 bottles, plus another 30 or 40 bottles of cough  
12 syrup.

13           THE COURT: You are basically having another 20  
14 minutes of closing argument. And you finished long ago with  
15 my question, so I guess if I can interrupt you.

16           Dr. Ahuja testified that he thinks the secretary is  
17 the one who walked off with all these pills.

18           MR. GAZIN: Well, it is his theory.

19           THE COURT: And it isn't until four months later --  
20 well, it has to be his belief, right?

21           MR. GAZIN: Yes, Your Honor.

22           THE COURT: It strikes me that if I credit that  
23 belief, then he's more culpable. He's caused more damage to  
24 the public because there can only be one reason a secretary  
25 walks off with all of these pills. It's not a physician who

1 is going to go sell them in their own practice and possibly  
2 have it be a lawful sale.

3 What's a nonmedical person going to do with  
4 Oxycodone, right?

5 MR. GAZIN: That's true.

6 THE COURT: So I'm not sure that's a great theory  
7 for him to have.

8 Turning to a different question about his assets.

9 Do you deny that the estate planning -- and you can  
10 say it was just coincidental -- but occurred shortly after  
11 his becoming a target of a criminal investigation into sale  
12 of illegal substances or failure to keep records or whatever  
13 else the investigation was about?

14 MR. GAZIN: Considering that no evidence was  
15 presented on this point, I believe I can deny it.

16 THE COURT: I thought that that came out in the  
17 testimony of some witness about a 2008 investigation.

18 MR. GAZIN: Your Honor, I'm glad that you asked that  
19 because Court may be laboring under a misapprehension.

20 Attorney Soloway asked Dr. Ahuja, in  
21 cross-examination, he said, isn't it true that -- or that you  
22 transferred your assets into Ahuja Holdings because a  
23 criminal proceeding was commencing prior to that?

24 Dr. Ahuja answer was no. And that's the extent of  
25 the evidence that's been presented on this innuendo or

1 allegation --

2 THE COURT: I did what I tell juries not to do, you  
3 telling me I listened to the question, not the answer.

4 MR. GAZIN: Your Honor, that's precisely what you  
5 did.

6 THE COURT: I will check the record.

7 MR. GAZIN: The record will show that.

8 If, in fact, I would say, that was the plaintiff's  
9 claim, then I would say the plaintiff could easily have  
10 bolstered that claim by presenting documentary evidence to  
11 prove it. The fact that they chose not to bring in that  
12 easily obtained evidence is highly suggestive of the fact  
13 that they could not prove it because it is not true.

14 THE COURT: Well, I think the Government is going to  
15 have a hard time, although I would never put anything past  
16 Attorney Sciarrino. I don't know if you have met her yet,  
17 but you are going to have fun with her. I wouldn't put  
18 anything past her ability to reach.

19 But for the moment, right now I'm asking you this  
20 question, I am going to assume that these trust assets are  
21 not reachable. So I'm not sure it matters what he knew or  
22 didn't know when he created these trusts, at least to me at  
23 this point in this questioning.

24 I did hear testimony, didn't I, that he has sold  
25 real estate? And he has -- I think there's tax record

1 evidence of sale of stocks I have seen in the documents that  
2 I reviewed. And I have no idea where those proceeds went.  
3 You haven't told me.

4           You could, for example, have -- Dr. Ahuja could have  
5 testified, I have \$450 in my checking account, and I have no  
6 other bank accounts. Or he could have said, here's my Schwab  
7 account. This is the only stock account I have. As you can  
8 see, it has 200 shares of something worth \$3,000. He could  
9 have demonstrated his inability to pay, but he didn't do  
10 that, I don't think.

11           MR. GAZIN: I think I did, Your Honor. I think he  
12 did. If you'll look at his affidavit. He does recite his  
13 two IRA accounts and his two bank accounts. And the Court  
14 can see them for himself. I don't remember the exact page,  
15 but it is near the end of the affidavit, perhaps page 7, 8 or  
16 9.

17           THE COURT: It says, I have no financial assets. I  
18 own no real estate. I have two IRA accounts. I have two  
19 bank accounts. All the real estate I have acquired was  
20 effectively conveyed to the Ahuja, but I heard testimony that  
21 he had sold real estate that was not held by Ahuja.

22           MR. GAZIN: I would ask the Court to check the  
23 record. He has not sold any real estate or conveyed any real  
24 estate since 2009 when Ahuja Holding was created.

25           What I believe the witness, the accountant said, was

1 that -- and I believe, I won't say misspoke, he said that Dr.  
2 Ahuja sold property. But he didn't mean real property. He  
3 meant stocks. I believe he was referring stock -- to losses  
4 that Dr. Ahuja took, I believe, two years ago.

5 These do appear on his tax returns for the years  
6 2014 and/or '15.

7 THE COURT: Has he told me anywhere in his affidavit  
8 that he hasn't given, transferred or otherwise hidden assets  
9 that he had prior to March 1 when he gave his affidavit?

10 How do I know he didn't, on February 28, take  
11 \$200,000 from his checking account and give it to his son?

12 MR. GAZIN: I don't know what to say about that,  
13 Your Honor. I thought that the affidavit's current to March  
14 1, and that he states that -- what his assets are. Since he  
15 has no other assets besides those he's representing in this  
16 March 1 affidavit, he couldn't have conveyed any to anybody  
17 after March 1.

18 THE COURT: But he could have conveyed assets before  
19 March 1.

20 MR. GAZIN: He couldn't have conveyed real estate.  
21 And his tax returns for the last three years, I believe, show  
22 what he's had over the last three or four years.

23 THE COURT: I'm sorry, but I find tax returns  
24 uniquely unsatisfying in determining what anyone possesses.

25 You couldn't possibly tell how much I have in a

1 brokerage account right now from looking at my tax returns.  
2 You will see capital gains on certain shares. You maybe  
3 could back engineer how many shares I had at some time in  
4 that year, but you wouldn't know if I bought more after the  
5 year ended. You wouldn't know what else I have in the  
6 account that didn't generate a capital gain. You wouldn't  
7 know what I had given away to somebody. You wouldn't know  
8 what bank accounts I have.

9 Perhaps on December 30, somebody gave me \$200,000, I  
10 put it in my bank account. I will have interest for the bank  
11 account, which is a pittance these days even if the 200 were  
12 counted, but it wouldn't have any interest on the 200 that  
13 could possibly be reflected.

14 I mean, the tax return is -- you want a tax return  
15 to try to identify as many things as possible that may be  
16 owned or have been owned by a person, but it doesn't tell me  
17 the person's value, net worth, or what, if any, assets have  
18 either come into his possession or gone out of his possession  
19 in some period of time prior.

20 So you think I am going to find, when I look at the  
21 record, that any sale of real estate was real estate that was  
22 in Ahuja Holdings, which I do recall there's evidence that  
23 everything he owned by way of real estate, except for one  
24 property or -- was in Ahuja Holdings transferred as of '09.  
25 He didn't sell the one property that wasn't put in there, so



1 perhaps you are right on that.

2 On the stock, I don't know. Obviously, he owns  
3 stock. Obviously, he sold stock. I have no idea what  
4 additional stock he has, do I, or bank accounts?

5 MR. GAZIN: Perhaps I failed in being sufficiently  
6 clear in the affidavit. I thought I was conveying a picture  
7 of his financial status to the effect that his only income  
8 since 2009 has been essentially through his earnings as a  
9 doctor and from the Darien Immediate Medical Care Center.  
10 And such profits as he has made from the sale of stocks are  
11 represented or reflected in his tax returns, to give the  
12 Court a picture of his assets and his income.

13 THE COURT: Thank you very much.

14 Attorney Soloway, do you have five minutes of  
15 rebuttal?

16 One last question I meant to ask. I have no  
17 information on his expenses, do I?

18 MR. GAZIN: No, Your Honor.

19 THE COURT: Thank you.

20 MR. NELSON: In a lot of ways this is a difficult  
21 case for the Court. Because as Your Honor knows from the  
22 research she's conducted, not a lot of these cases go to  
23 trial, most of them settle. So in some ways, when we get  
24 Your Honor's judgment in this case, the public will really  
25 get one of two senses on how these case are if we go with

1 Attorney Gazin's suggestion of approximately \$28,000, what  
2 the public will see is that you can willfully dissipate your  
3 assets, for good or bad reasons, come into Court, give no  
4 explanation of what you have in assets and essentially suffer  
5 a slap on the wrist. Crediting Dr. Ahuja's testimony, as the  
6 Court indicated, if these drugs were stolen, it is not as  
7 what Attorney Gazin said. Indeed they did go into someone's  
8 bloodstream.

9 If Attorney Gazin (sic) was personally using them,  
10 as suggested in his deposition, then he's treating thousands  
11 of patients over a couple of years with a tremendous amount  
12 of medication in his system, and he's a harm to the public.

13 If the Court were to seek -- were to impose the  
14 penalty that the United States seeks, the message to the  
15 public, and it is small medical community in the State just  
16 like it is a small bar, is that these are serious things and  
17 they must be taken seriously in the midst of an opioid  
18 crisis.

19 Now, in some ways, what Dr. Ahuja comes here and  
20 says is, I didn't obstruct this investigation, I complied the  
21 entire time. But there's no real better evidence actually of  
22 the obstruction than Dr. Ahuja's testimony today. If,  
23 indeed, his theory all along has been that his secretary  
24 stole them, that would have been the first thing to tell the  
25 DEA. Because you know what, that investigation would have

1 gone a completely different way.

2 Sure, we would be focused on the regulatory  
3 violations of Dr. Ahuja. But we would also be trying to  
4 recover those drugs and make an arrest and start to work up  
5 that chain on a drug organization, or at least the dealer.  
6 And that's the best evidence of obstruction that Your Honor  
7 could ask for. Dr. Ahuja's testimony, the theory he's had  
8 all along that he never told anyone, not the police, not the  
9 DEA, not the State Drug Control, just here today, two years  
10 after this whole thing starts.

11 Now, Dr. Ahuja has not earned any equity from the  
12 Court. The idea that Dr. Ahuja has made this go simple or  
13 quickly or quietly is belied by the fact that he waited until  
14 the pretrial on a jury trial to essentially admit liability  
15 as to every single count. Now it is not an apt analogy, but  
16 I think it does hold that when we consider the criminal  
17 context, we give a couple points off for early acceptance of  
18 responsibility. And it's the same thing here. I don't think  
19 the analogy is completely air tight. But the idea is that  
20 you would try, if you have done these things wrong, to not  
21 waste everyone's time. So it doesn't change the penalty, but  
22 it undercuts any argument for equity that he comes here and  
23 he presents.

24 When we talk about his profit, and Attorney Gazin  
25 said he didn't profit off of this. But the reality is any

1 business profits when you completely ignore a regulatory  
2 scheme, right? If you are a manufacturing plant and you  
3 ignore all the EPA regulations, you are going to do better.  
4 If you are a doctor's office and you ignore all the  
5 regulatory schemes of the DEA, you are not spending that  
6 time, you are seeing more patients. So, yeah, there is a  
7 profit on the back end. So this idea that he hasn't profited  
8 doesn't make any sense.

9 The Government is now asking for the same penalty it  
10 asks when we move for a default judgment because we feel like  
11 that's the appropriate penalty given the severity of this  
12 situation, given that this was a purely civil action that was  
13 ever taken criminal, and given that, as of today our best  
14 guess is that the drugs went out to the street to people,  
15 given Dr. Ahuja's testimony.

16 If there are no questions, Your Honor.

17 THE COURT: No, that's fine. Thank you very much.

18 The Court will take the matter under advisement and  
19 expect to issue a written opinion. Unless there's anything  
20 further, the Court will stand adjourned.

21 (Whereupon, the above hearing adjourned at 03:24

22 p.m.)

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

COURT REPORTER'S TRANSCRIPT CERTIFICATE

I hereby certify that the within and foregoing is a true and correct transcript taken from the proceedings in the above-entitled matter.

/s/ Terri Fidanza

Terri Fidanza, RPR  
Official Court Reporter

	<u>INDEX</u>	
	EXAMINATION	
	Witness Name	Page
1		
2		
3	UTTAM AHUJA	
4	Cross By Mr. Nelson .....	10
5	Re-Direct By Mr. Gazin .....	14
6	SONNY AHUJA	
7	Cross By Mr. Nelson .....	17
8	RODRICK MARRIOTT	
9	Cross By Mr. Gazin .....	21
10	Re-Direct By Mr. Soloway .....	31
11	LEONARD LEVIN	
12	Cross By Mr. Gazin .....	32
13	MARCIE JOHNSON	
14	Cross By Mr. Gazin .....	43
15	Re-Direct By Mr. Nelson .....	51
16	DR. ADAM PERRIN	
17	Cross By Mr. Gazin .....	52
18	Re-Direct By Mr. Soloway .....	61
19	NICHOLAS AHUJA	
20	Cross By Mr. Nelson .....	64
21	Re-Direct By Mr. Gazin .....	79
22	AJAY AHUJA	
23	Cross By Mr. Soloway .....	84
24	Re-Direct By Mr. Gazin .....	136
25		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STEFAN PELESCHUK

Cross By Mr. Nelson ..... 124

Re-Direct By Mr. Gazin ..... 133